ISSN 0317-7319

NINTH ANNUAL REPORT

OF THE OMBUDSMAN

REGINA, SASKATCHEWAN
Printed by R. S. REID, QUEEN'S PRINTER
1982

OMBUDSMAN — 2310 Scarth Street Regina, Canada S4P 3V7 (306) 565-6211

SASKATCHEWAN

The Honourable The Speaker
of the Legislature
Province of Saskatchewan
Legislative Buildings
REGINA, Saskatchewan

Dear Mr. Speaker:

It is my duty and privilege to submit to you and to the Legislature, the ninth Annual Report of the Saskatchewan Ombudsman, submitted in accordance with the provisions of subsection (1) of section 30 of *The Ombudsman Act*.

Yours sincerely

D. A. Bell

Ombudsman

PART I

HIGHLIGHTS OF THE REPORTING YEAR 1981

PART I

HIGHLIGHTS

COMPLAINT VOLUME

- Members of the Saskatchewan public approached my office in 1981 in approximately the same numbers as last year, i.e. — 2,248 in 1981 as compared with 2,255 in 1980.

- However, the number of complaints against the provincial government increased dramatically in 1981 to an all time high of 1,025, up from 879 in 1980 (16.6%).

- The continuing increase in complaints requiring investigation has resulted in caseloads that are unacceptably high and an immediate need to add to my investigative staff.

SHIFTS IN VOLUME

- A 3-year trend towards decreased complaints against S.G.I., Sask-Tel and Sask-Power was radically reversed in 1981 resulting in increases in the order of 61%, 100% and 105%, respectively.

- 1981 also produced very significant increases in complaints involving the Department of Consumer and Commercial Affairs — 169%, the Department of Labour — 83% and the Corrections Branch of the Department of Social Services — 20%.

- At the same time, several departments and agencies 'bucked' the general trend towards higher volumes and there were, in particular, significant declines in 1981 involving the Department of Highways and Transportation — 50%, the Highway Traffic Board — 36% and, somewhat to my surprise, the Department of Northern Saskatchewan — 60%.

- We also encountered modest declines in complaints involving the Public Service Commission and the Department of Agriculture.

- The geographical distribution of the complaints received in 1981 changed little from the past two years except for a staggering increase in complaints from Saskatoon. These complaints

increased from 193 in 1979 and 197 in 1980 to 299 in 1981. By comparison, the increase in Regina was much less, i.e. — from 245 in 1979 and 199 in 1980 to 244 in 1981.

THE NATIONAL CONFERENCE OF CANADIAN OMBUDSMEN — 1981.

- In September of 1981, the office hosted a very successful national conference of Canadian Ombudsmen and international guests in Saskatoon.

OUTREACH

- Our practice of opening temporary offices in various parts of the province to discuss citizen problems and receive complaints for investigation continued in 1981 with community meetings being held in Fort Qu'Appelle, Gravelbourg, Hudson Bay, Lloydminster, North Battleford, Rosetown, Swift Current, Tisdale, Uranium City, Weyburn, Wynyard and Yorkton.

FORMAL REPORTS

- I found it necessary to submit formal Reports on behalf of complainants on 57 occasions in 1981 and of the 21 Reports resolved by December 31, 1981, 18 recommendations had been accepted.

REPORTS TO CABINET

- For the second year in a row it was only necessary to submit one Report to cabinet and, for the second year, our submission was successful. See page 28.

NEW INITIATIVES

- To convenience and better inform the public, plans are underway to introduce a toll free line to my Saskatoon office for the northern half of the province during 1982 and to develop a comprehensive public education program for use in conjunction with our community and other meetings.

BUDGET

- **Summary of Budget — 1981-82**

Salaries —	$405,220.00
Travel —	20,200.00
Other contractual services —	51,590.00
Material, supplies & equipment —	7,590.00
Conference —	27,510.00
TOTAL	$512,000.00

A SPECIAL THANKS

- Any list of the year's highlights would be incomplete unless the special efforts of my staff was recognized. Faced with high volume and the need to direct their efforts to the planning of a major conference, the following individuals are deserving of very special recognition.

REGINA

Gordon K. Mayer — Solicitor to the Ombudsman
W. Kenneth Barker — Assistant to the Ombudsman (Regina)
Edward H. Malnyk — Chief Investigator
Earl A. McKeen — Investigator
Murray Knoll — Investigator
Carol Siekawitch — Intake Officer and Analyst
Joan Uhren — Executive Secretary
Lana Stefan — Clerk-Typist
Nolene Driol — Clerk-Typist
Lorrie Kozicki — Temporary Investigator

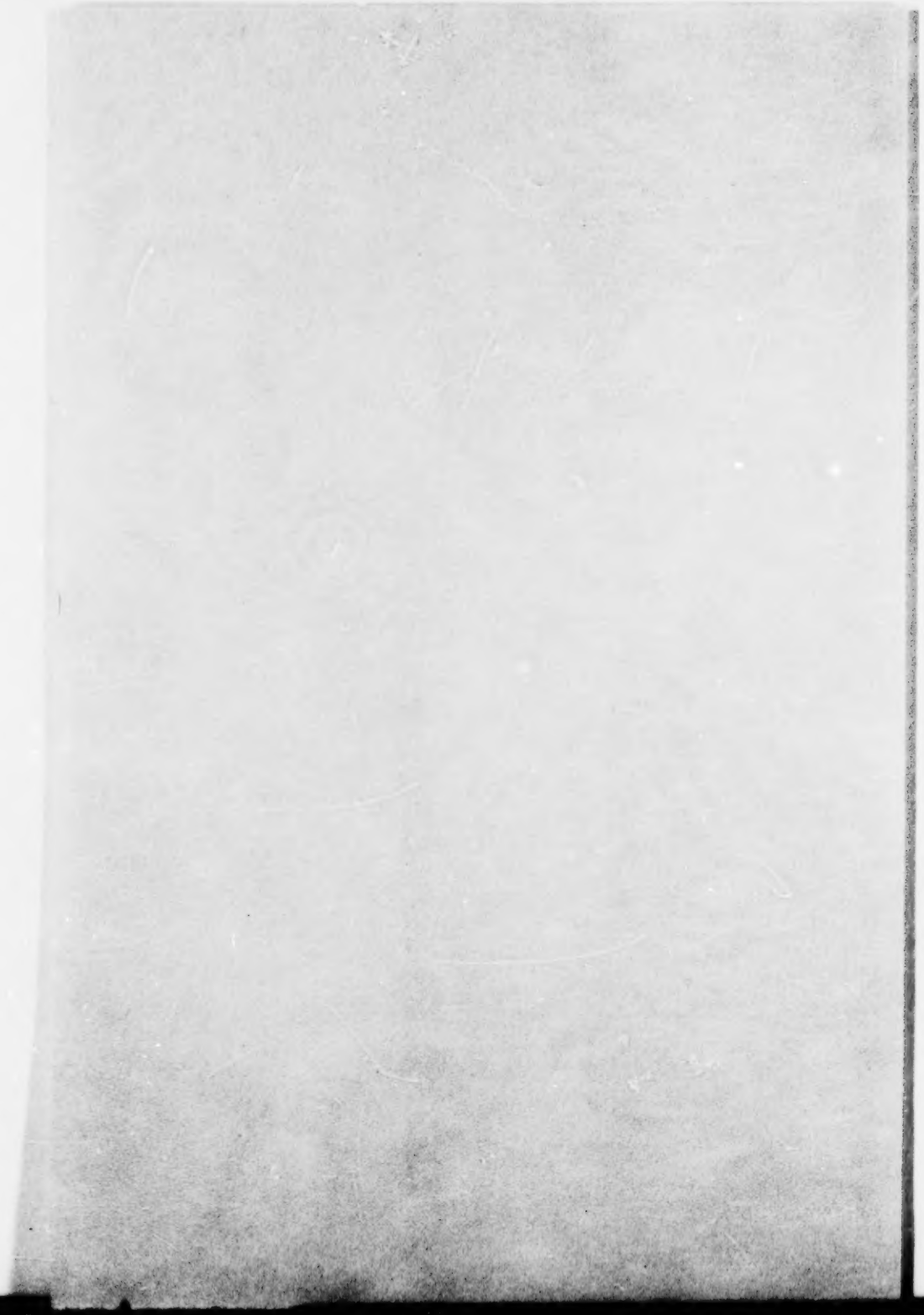
SASKATOON

Gil R. Thomson — Assistant to the Ombudsman (Saskatoon)
Ray Wahl — Investigator
Glenda Cooney — Investigator
Mari M. Pendleton — Intake Officer and Analyst
Joyce Strate — Clerk-Typist
Darien Moore — Temporary Investigator

PART II

Service to the public by Saskatchewan Departments and Agencies — Our Survey ..... p. 7

Selected Case Summaries ..... p. 13



PART II

WHO 'RATES' THE PUBLIC SERVICE?

. . . on this occasion, the short answer is that the staff of the Ombudsman and the Ombudsman, are prepared to do so.

There is no doubt that government devotes considerable time to the assessment of individual Saskatchewan residents in the course of considering applications for a host of grants, licenses, permits and other approvals. It seems only fair that the quality of the government's service to the public should receive similar scrutiny. With this in mind, I called on the collective experience of my staff, a total of 43 years worth of continuous contact with the public and government, to develop a rating system for Saskatchewan government departments and agencies.

The basis of our rating system is our collective perception of the quality of the services being provided to the taxpayers as viewed by us in the course of our contact with the public and our investigation of complaints. Without so much as a blush, I borrowed liberally from the star-rating system developed by the Department of Tourism and Renewable Resources to offer some guidance with respect to tourist accommodation and asked 10 members of my staff to join me in completing a ballot.

THE WIZARD OF ID
by Brant parker and Johnny hart
YOUR POPULARITY SURVEY IS IN, SIRE
50% ARE FOR YOU, 50% ARE AGAINST YOU AND 10% ARE UNDECIDED
OK, SPEND WHATEVER YOU HAVE TO BUT I WANT THAT 10 PERCENT
TWO MORE SURVEYS AND THIS KID'S ON HIS WAY TO EARLY RETIREMENT

by permission of Johnny Hart and Field Enterprises, Inc.

The form of the ballot and the ultimate result is set out below. The ballot was limited to departments and agencies where we have significant contact and where a department or agency was rated by fewer than five persons, that department or agency received a designation of "To be rated". I encouraged the addition of other agencies and where two or more of my staff made additions, the other staff members were polled on that agency. Where a page number appears next to the rating of the department or agency, a case summary has been included in this report to illustrate some of the reasons for our collective conclusions.

"BALLOT"

Service to the Saskatchewan public is to be rated by the staff of the Ombudsman and the Ombudsman according to an **in**voluntary rating system. Service to the (occasionally-suffering) Saskatchewan public by a department or agency may range from a rating of one-star for less than minimum service to a five-star rating for exceptional service. Ratings should not include an assessment of the occasional errors of judgment to which we all fall prey;

★	Less than minimum service
★★	Minimum service
★★★	Average service
★★★★	Very good service
★★★★★	Excellent service
To be rated	This department or agency cannot be rated yet as our case experience is too limited.
Provisional	This department or agency is approved at a given level on condition that deficiencies will be remedied within a specific period of time or in recognition of the fact that it is in the course of re-organization."

AGRICULTURE

— General	★★★½	
— Lands Branch	★★★	
— Appeal Board (Land Bank Act) & Lands Appeal Board (Provincial Lands Act)	★	see page 13
— Saskatchewan Crop Insurance Board	★★★½	
— Saskatchewan Land Bank Commission	★★★	

ATTORNEY GENERAL

— General	To be rated	see page 18
— Crimes Compensation Board	★★½	
— Saskatchewan Police Commission	★★★	
— Saskatchewan Human Rights Commission	★★★★	see page 21

CONSUMER AND COMMERCIAL AFFAIRS

— General	★★½	
— Rentalsman	★★½	see page 22

CONTINUING EDUCATION	★★★½	
EDUCATION	★★★½	

ENVIRONMENT	★★★	
GOVERNMENT SERVICES	★★★	
HEALTH		
— General	★★★½	
— Saskatchewan Hospital Services Plan	★★★	
— Saskatchewan Medical Care Insurance Commission	★★★½	see page 26
HIGHWAYS AND TRANSPORTATION		
— General	★★★★	see page 27
— Highway Traffic Board	★★★½	see page 28
INDUSTRY AND COMMERCE		
— General	To be rated	
— Sedco	To be rated	
LABOUR	★★	see page 31
NORTHERN SASKATCHEWAN		
— General	★★	see page 33
— Project Management Branch	To be rated	
— Municipal Services Branch	To be rated	

PUBLIC SERVICE COMMISSION	★★½	
PUBLIC SERVICE SUPERANNUATION BOARD	★★★★½	
RURAL AFFAIRS	★★★	
SASKATCHEWAN GOVERNMENT INSURANCE		
— General	★★★½	
— Motor Licensing Division	★★★½	
— Claims	★★★	
SASK. HOUSING CORPORATION	★★	see page 34
SASK. POWER CORPORATION	★★★★	
SASK-TEL	★★★★	see page 37
SOCIAL SERVICES		
— General	★★★	see page 38
— Corrections Branch	★★★	
TOURISM AND RENEWABLE RESOURCES	★★★★	

URBAN AFFAIRS	★★★½	see page 47
WORKER'S COMPENSATION BOARD	★★★½	

SELECTED CASE SUMMARIES

DEPARTMENT OF AGRICULTURE

APPEAL BOARD (LAND BANK ACT) & LANDS APPEAL BOARD (THE PROVINCIAL LANDS ACT)

It can be seen that this Board received the lowest rating by my staff of any deparmtment or agency. While our investigations over the past several years could provide illustrations of our reasons for this rating, I thought it might be just as helpful to cite from a recent court decision involving the Land Bank Commission.

While the decision of Wimmer, J. of December 31, 1981, in the case of *Van Metre v. The Saskatchewan Land Bank Commission*, does not identify all our process and natural justice concerns with the Appeal Board, it does identify several of the problems that we are encountering on a regular basis in the course of our investigations. My long overdue Report on this subject will be supplied to the Minister of Agriculture in the spring of 1982.

As Mr. Van Metre had also lodged a complaint with my office, we followed the court case closely and were very pleased that the court decision will provide additional support for our position on a number of other files involving the allocation of agricultural lands.

This case involves an individual who had been terminated by the Commission as a lessee of Land Bank land. The decision by the Land Bank Commission had been appealed and he lost his appeal before the Lands Appeal Board. However, he retained legal counsel and with the consent of the Appeal Board, received a new hearing on the basis that the Appeal Board in making its decision had relied on evidence obtained by it after his appeal hearing. Having no knowledge of the Board's enquiries and no opportunity to qualify or rebut them, it was agreed by all parties that he was entitled to a new hearing.

The court case was with respect to his second hearing as he had again lost before the Appeal Board. In the course of striking down the second Appeal Board hearing, Wimmer, J. phrased his reasons in the following terms:

> Section 59 of the Act provides that the Appeal Board shall consist of at least five members, two of whom shall constitute a quorum. On June 23, 1981 a panel of three members convened to again hear an appeal from the decision of the commission to terminate the appellant's lease. Chairman of

the panel was E. E. Jalbert who also acted as chairman of the previous panel which found against the appellant. *It is now raised as a ground of appeal that the presence of Jalbert on the panel was unnecessary and amounted to a denial of natural justice because of the likelihood that he would not be impartial as between the parties.*

No objection was taken at the hearing to Jalbert's participation in the second appeal. If it had, he might have realized the wisdom of excusing himself. *A suspicion of bias is almost inevitable when a trier of fact proposes to adjudicate upon the identical issues he has already once decided and which involved the same parties.* Nevertheless, in my judgment it is not now open to the appellant to object to the jurisdiction of the Appeal Board on this ground, no such objection having been taken when it was timely. The jurisdiction of the panel to determine the issue was impliedly conceded by counsel for the appellant when he cross-examined witnesses, produced evidence and presented arguments in an effort to persuade the Board to find in his client's favour. In this regard I adopt the reasoning of Freedman, J. A. in the case of *Re Thompson and Local 1026 of the International Union of Mine, Mill and Smelter Workers*, (1962) 35 D.L.R. (2d) 333, as that reasoning appears at page 339. *In any event, in view of the conclusion I have reached, the question is, in the context of this appeal, academic.*

The hearing concluded on June 15, 1981 and on June 18th the decision of the Appeal Board was recorded as follows:

"June 18/81

The Lands Appeal Board find that the Land Bank Commission have proceeded properly with the termination of their lease with Ivan Van Metre.

Final termination procedures should be carried out.

CHAIRMAN *"E. E. Jalbert"*
SEC'T. *"Lorne Dyer"*

The appellant was advised of the result by letter dated June 29, 1981.

Although it has not been argued as a ground of this appeal it may be appropriate to point out that the Appeal Board in communicating its decision appears not to have complied

with one of the regulations governing its procedure. Section 25(1) of the regulations made under *The Land Bank Act* requires that:

> All persons who were heard at an Appeal Board hearing, and persons whose interest, in the opinion of the Board, may be affected by the decision of the Board, shall be advised in writing of the decision of the Board *and the reasons for the decision.*

The giving of reasons involves an enunciation of the facts and principles upon which the question before a tribunal has really been determined. Reasons are desirable so that an unsuccessful party may know exactly why he has not succeeded and to assist him in deciding whether to pursue an appeal when that remedy is available. A terse statement of the conclusion "that the Land Bank Commission have proceeded properly with the termination of their lease" does not, in my respectful opinion, *achieve the objectives of the regulation directing that reasons be given.*

Whether the failure to give reasons as required by statute amounts to a fatal legal error is a question I do not find necessary to rule upon because I have decided the appellant is entitled to succeed in any event. However, it is useful to be mindful of the admonition that: "Whether it constitutes legal error or not, failure to give reasons can undermine confidence in a tribunal or tribunals generally". *Administrative Law and Practice*, Reid and David, 2nd ed. pg. 268.

What I regard as determinative of this appeal involves the provisions of sections 28 and 29 of the Act and the manner in which the commission moved to terminate the appellant's lease. Section 28 describes the circumstances under which a lease may be terminated and section 29 the procedure to be followed.

28. Subject to section 29, the commission may terminate a lease of commission land where the lessee:

> (a) is in default in payment of any rent or any other amount to be paid by him under the lease;
>
> (b) is in default under the lease by reason of the breach or non-performance of any covenant, proviso, condition or stipulation in the lease that is to be observed or performed by the lessee;

(c) is in default in payment of the principal, of, or interest on, loans made by the commission under section 22 or loans the repayment of which are guaranteed by the Minister of Finance under section 24;

(d) is no longer principally engaged in farming.

29. Where the commission proposes to terminate a lease of commission land under section 28, the commission shall:

(a) send written notice by registered or certified mail to the lessee that the lease will terminate on a specified date not less than thirty days after the date on which the notice is sent unless the lessee complies with the clause (c);

(b) set out the reasons for the proposed termination of the lease and the section of the Act under which the termination is authorized;

(c) set out in the notice mentioned in clause (a) the steps that may be taken by the lessee to remedy the situation giving rise to the proposal of the commission to terminate the lease;

(d) where the lessee fails to comply with clause (c), on any day after the day specified in the notice mentioned in clause (a) send the former lessee and the council of the rural municipality, the Minister of Municipal Affairs or the minister to whom is assigned the administration of *The Northern Administration Act*, as the case may require, written notification by registered mail of termination of the lease.

It is clear that even when a default has occurred a termination of the lease cannot necessarily be effected. These provisions are remedial in nature and designed to give a lessee reasonable opportunity to comply with the terms of his lease and thereby avoid being dispossessed. *The commission is obliged, before terminating a lease* for one of the reasons set out in section 28, *to specify the alleged default in its notice to the lessee* and *to require that it be corrected within a prescribed period*, failing which the lease will be terminated.

Insofar as the appellant's arrears of rent were concerned, the system worked as it was designed to do. He was given notice of the amount in arrears, this was paid and termination averted. *But how could he be expected, in response to a*

letter dated October 15, 1980, to prove to the commission before October 31, 1980, that he had been utilizing the land, in accordance with good farming practice? Indeed, he thought he had and the commission's notice offered no clue as to any specific practices complained of and no direction as to what remedial action would be required. *In proceeding as it did, the commission placed upon the appellant an onus which is not his. It is for the landlord seeking forfeiture of a lease to prove a breach, not for the tenant to establish the lack of one.*

For the commission to effect a termination of the appellant's lease on the ground of poor farming practice it was necessary to dispatch a notice particularizing the complaint and specifying a reasonable period within which corrective measures could be taken. *The questions for the Appeal Board to consider included:*

1. *Did the notice* sent pursuant to section 29 of the Act *specify with sufficient particularity the reasons for the proposed termination*?
2. *Was there evidence before the commission to support those reasons?*
3. *Was the appellant provided with a reasonable opportunity to remedy any default?*
4. *Did he do so?*

If the members of the Appeal Board had approached their task in this way they would necessarily have concluded that, at least in respect of questions 1 and 3, the answer was no, and that the commission had not proceeded in the manner required by the Act.

The appeal will be allowed and the decision of the commission to terminate the appellant's lease pursuant to the written notice dated October 15, 1980 set aside".

(emphasis mine)

DEPARTMENT OF THE ATTORNEY GENERAL

#81-2000-10-01

An individual complained to my office that he was arrested by police, imprisoned and served 20 days at the Regina Correctional Centre for a fine which had already been paid. He stated that despite his protestations to the police and the correctional centre authorities, no one would believe him and he had been kept imprisoned. It was not until he was taken to court as a witness on another matter that he had an opportunity to raise his problem. The judge asked him to wait, made enquiries into the matter and confirmed that the fine had been paid. The court then ordered his release from the correctional centre.

This person came to my office seeking compensation for his imprisonment and some assurance that this could not happen again.

Our investigation indicated that he had been convicted of common assault and sentenced to a $250 fine or, in default, a sentence of three months in jail. The complainant's wife proceeded to pay his fine by way of two installments of $125 each. The second installment had not been paid until after the due date with the result that a warrant had issued for his arrest. The second installment was paid and normally, the warrant would have then been withdrawn. Unfortunately, an error was made and the warrant was not withdrawn. Consequently, when police stopped the complainant on a routine check, they found that the warrants were outstanding against him and therefore arrested him and escorted him to the correctional centre. It would appear that nothing more than preliminary inquiries were made by the correctional centre and that centre officials were advised that the warrants were still outstanding.

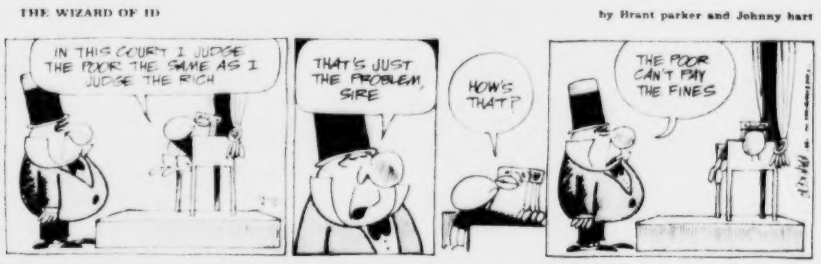
My conclusions on this case were that the staff of the municipal court had erred in not withdrawing the warrants and that the correctional centre may not have thoroughly investigated the complainant's claim that the fine had already been paid.

As the Attorney General and his department is responsible for the administration of justice in the province, the investigation was opened against that department and the recommendations and conclusions were directed to it.

After the department had completed their own inquiries on this matter, there was agreement that some form of compensation would be in order. I recommended the payment of the sum of $5,000 and this amount was agreed to. The money was obtained by the Attorney

General's Department from the municipality and the corrections system and paid to the complainant through my office on a without liability basis.

For obvious reasons, the complainant was delighted at the result. I considered it a genuine effort to provide compensation for the injustice which he had suffered and my file was closed as a substantiated and rectified complaint.


THE WIZARD OF ID
by Brant parker and Johnny hart
IN THIS COURT I JUDGE THE POOR THE SAME AS I JUDGE THE RICH
THAT'S JUST THE PROBLEM, SIRE
HOW'S THAT?
THE POOR CAN'T PAY THE FINES

by permission of Johnny Hart and Field Enterprises, Inc.

SASKATCHEWAN POLICE COMMISSION

#80-2070-00-02

This case originated as a complaint against the Saskatoon City Police for loss of property.

Ten items were seized under authority of a search warrant from premises rented by two men. One of the men was charged with possession of stolen property and apparently did plead guilty in respect of one of the items. Of the other nine items, two were sold at public auction and the rest were available for return to the owners — one or other of the two men. However, all the property seized had been listed in the name of only one man, the principal tenant of the rented premises and, the police reported, all seven items were handed to this man's parents.

When our complainant heard this he pursued the matter with his friend's parents but they disclaimed any knowledge of his property.

Subsequent inquiry of the police and through the Attorney General's Department did not advance our complainant's case. The police merely maintained that all the property had been returned to his friend's parents, and he was advised to pursue the issue with the Saskatchewan Police Commission. This he did, and an investigation was made which noted the police erred in not obtaining a receipt when the property was handed over. The response indicated that

the possibility of compensation had been explored but the City did not feel obligated towards him since the property was returned. At this stage I received a complaint that the Saskatchewan Police Commission had not done all it could in the matter.

An investigation was initiated and confirmed that the Commission's investigator had inquired into the matter and, as noted, had found the police at fault for not obtaining an itemized receipt for the property. The investigator felt there "was a responsibility on the part of the Saskatoon Police Department to have obtained a receipt . . . when returning the property in question because without it there is no way of proving that some mix-up did not occur and that (the complainant's) property was, in fact, not misplaced."

The mix-up mentioned relates, in part, to a .12 gauge shotgun which was recorded, at the time of seizure as a .12 gauge Savage, serial #12900674. Our complainant identified his gun as a .12 gauge Springfield pump shotgun, made by Savage, with the serial #B2900674. However, his friend's parents are adamant that they received a .410 shotgun and, without an itemized, signed receipt one can only guess at what happened. It should also be noted that two tape decks were also missing and could not be traced, although the police maintained they had been handed over with the other property.

As a result of the Commission's investigation the Saskatoon Board of Police Commissioners was asked about the possiblity of providing some compensation to the complainant but the response was in the negative and the complainant was advised to contact a lawyer if he wished to pursue the issue further. It was also indicated, however, that the Saskatoon police had taken steps to ensure itemized receipts are obtained in future when any property is returned.

On consideration of the result of the Commission's intervention I was not satisfied that they had dealt adequately with the complaint and I expressed my views to the Commission thus: —

> I agree . . . that there is no way of conclusively proving that the property was handed to the friend's parents, but the reason for this lay with the Police Department, and it is therefore the department's responsibility to make good any loss arising from its mistakes.
>
> Given the circumstances described in your investigator's report I would have expected a strongly worded recommendation to pay appropriate compensation to the complainant, together with some criticism of the property handling proce-

> dures of the Saskatoon City Police. It is no small thing in itself, indeed it is a very serious matter when police seize a citizen's property, albeit by authority of a search warrant. It is negligent to then handle the property so carelessly that its disposition is unknown. When police come into possession of property, by whatever means, surely there must be an obligation to record it accurately, to store it safely and to dispose of it only against the recipient's signature or under proper (signed) authority.

In so writing I was merely taking the Commission to task for not, as I felt, sufficiently recognizing the seriousness of the problem in a general sense, although highlighted by this particular case. As it happened, by the time I wrote to the Commission, the complainant had received some compensation from the City of Saskatoon. My office was advised by the Commission's investigator that the City had actually paid compensation in another similar case and might be open to negotiation in this case. Our complainant was contacted and advised to pursue the question of compensation. This he did but reported he was not happy with the $200.00 offered. He thought $600.00 would better represent his loss and sought our further help. Eventually the figure of $350.00 was agreed and paid.

As regards my criticism of the effort made on the complainant's behalf, the Commission responded that they were satisfied with the handling of the complaint.

SASKATCHEWAN HUMAN RIGHTS COMMISSION

#80-2100-00-02

While in Kindersley for a community meeting, I was contacted by a local businessman who complained about the way he had been treated by the Human Rights Commission. He explained that another individual from the community had lodged a complaint with the Human Rights Commission about him in December of 1979 but that he was totally unaware of the complaint until March of the next year when knowledge of the complaint became general community knowledge and several residents of the town asked him about the matter.

Under the Commission's regulations the only obligation upon it was that the Commission provide the person against whom allegations are made with a copy of the complaint prior to the hearing. This appeared entirely inadequate and after investigation, I tentatively

recommended that the regulations be amended to require the Commission within a specific time to provide notice to persons against whom complaints had been lodged with the Commission.

In their response the Commission explained that this was the first time this problem had come up, that a specific change to the regulations for a specific period of notice could create investigative problems in some cases and that they wished to propose an alternative. The alternative was to provide a one-month internal check on the system by the Commission's solicitor rather than amend the regulations. As the situation was aparently unique, I was prepared to accept the Commission's alternative, at least until such time as similar complaints are received in the future.

A problem had been identified through our investigation and the Commission recognized the problem and produced a constructive answer.

DEPARTMENT OF CONSUMER AND COMMERCIAL AFFAIRS

The reporting year 1981 brought a dramatic increase in complaints against the Department of Consumer and Commercial Affairs, and against the Rentalsman's office. We had 5 complaints against the department in 1980 and 8 against the Rentalsman. In 1981, we opened 22 investigations against the department and 13 against the Rentalsman. With the increase in investigations came increased contact and, somewhat to my surprise, a decrease in co-operation in the early part of the year.

More often than not, the complainants approached my offices because they were dissatisfied with the efforts made on their behalf by the department regarding their consumer problems or by the Rentalsman with respect to their lease problems.

A number of files and some proposed recommendations involving consumer problems are still under consideration and discussion with the department and will not be reported here. However, a similar issue with the Rentalsman was resolved during the year and I am setting out here a portion of my Report to the Minister, of October 29, 1981, on this subject:

> "In practical terms, there were some extenuating circumstances in the present case and indeed, as indicated in my initiating correspondence, the grievance of the complainant and the subject matter of the complaint itself was not of

earth shattering proportions. *However, the issue I have been attempting to pursue does not relate to the specifics of this file, but to the apparent conflict between the advice being given by the Rentalsman's office to persons approaching them and their statutory duty to those persons.*

In the course of our investigation, my investigator was told in no uncertain terms that the role of the Rentalsman with respect to these kinds of complaints is to *mediate* rather than to *investigate*. We were also advised that the reason for this obligation related directly to caseloads in the Rentalsman's office and the limitation on resources. On the other hand, subsection (2) of section 47 of *The Residential Tenancies Act*, unequivocally states that the Rentalsman on becoming aware of any possible contravention of or failure to comply with the provisions of *The Residential Tenancies Act, shall direct an investigation* into the matter. The limited enquiries made in the present case coupled with admissions by staff to the effect that the attempt was to mediate rather than to investigate, leaves no doubt whatsoever but that the Rentalsman failed to meet the obligation imposed upon him by his legislation. I believe my conclusions in this regard have been acknowledged in the attached correspondence from both Mr. Tait and Ms. Pearson over the past several months.

Accordingly, it is my finding that the Rentalsman failed to meet his statutory duties with respect to conducting an investigation of this complaint. Given the reasons supplied in justifying 'mediation' rather than 'investigation' *I believe there is also no doubt but that the implications of this policy are broader than this particular file and that the existence of this policy and its application may be denying a significant number of persons the assistance to which they are statutorily entitled under The Residential Tenancies Act.*

RECOMMENDATIONS:

For the reasons given, my recommendation is as follows:

> THAT unless section 47 of *The Residential Tenancies Act* is amended, the staff of the Rentalsman's office be directed to investigate, and not merely mediate, all rental complaints within the meaning of section 47 of *The Residential Tenancies Act*."
>
> *(emphasis mine)*

I am pleased to advise that the minister accepted my recommendation by letter dated November 5, 1981 which read in part as follows:

> "I have discussed this matter with the Deputy Minister of Consumer and Commercial Affairs and the Rentalsman.
>
> You have made the following recommendation:
>
> THAT unless section 47 of *The Residential Tenancies Act* is amended, the staff of the Rentalsman's office be directed to investigate, and not merely mediate, all rental complaints within the meaning of section 47 of *The Residential Tenancies Act.*
>
> Your recommendation is accepted and I have directed the staff of the office of the Rentalsman to investigate, and not merely mediate, all rental complaints within the meaning of section 47 of *The Residential Tenancies Act.*"

DEPARTMENT OF HEALTH

#81-13000-10-03

On April 2nd of 1981, I received a complaint from two ratepayers of the Town of Churchbridge. They explained that pursuant to the provisions of *The Union Hospital Act*, communities are entitled to withdraw from a Union Hospital District if 60% of the burgesses favour the withdrawal and if cabinet approves. In the case of the Churchbridge petition, it contained 422 names out of a total eligible population of 492 representing 86.19% of those eligible. In spite of the express wording of the legislation, it was alleged that the Department of Health had not sought cabinet consideration of the matter.

Investigation supported the allegations of these citizens. The matter had not been considered by cabinet even though the Minister of Health by letter dated January 27, 1981, stated unequivocally that he did not favour the withdrawal and would not support the request that the Town of Churchbridge withdraw from the Langenburg Hospital District.

The department had compelling reasons for not favouring the withdrawal related to utilization rates and other health care factors. However, the decision, according to the legislation, was a decision for cabinet to make and not the department or the Minister of Health.

I gave notice to the department of my intention to investigate this complaint on the 13th of April 1981. Perhaps because of our interest

in the matter, cabinet consideration was given to this petition and another similar petition in May with the result that cabinet refused to approve the withdrawal at that time.

Being unaware of the fact that cabinet consideration had occurred, I gave notice to the deputy minister recommending a referral to cabinet. While this was not a full answer to the petitioner's problems, I had done all I could because I expressly lack the jurisdiction to investigate a cabinet decision.

However, in the department's response, the deputy minister alleged "that the Department of Health acted entirely in accordance with *The Union Hospital Act* and raised somewhat unnecessarily, a fresh issue."

My July response stated in part as follows:

> "I have no doubt agreeing with the proposition put forward in your letter of June 29th that the Department of Health has *now* acted in accordance with the provisions of *The Union Hospital Act*. I would also agree that given the fact that cabinet considered the matter in May that there is literally no tentative findings or recommendations that could be construed as being adverse in interest to the department. However, at the time we received these complaints and indeed until your letter of June 29th, I was unaware of the fact that the matter had been referred to cabinet. As the complaints I received alleged non-compliance with *The Union Hospital Act* by the department with respect to petitions lodged in January of this year, I have little difficulty in finding that the complaints were substantiated and that the Department of Health by referral to cabinet rectified the matter.
>
> *As the correspondence from the minister in these situations very clearly left the implication that the decision was his and not that of cabinet, I would hope that this has been noted for future purposes and that the department will ensure it has the comfort of a cabinet decision before taking an absolute position with petitioners.* In a sense I can understand why this occurred as departmental officials understandably likely have characterized the issue as community tax relief vs. logical hospital district planning. However, unless the legislation is changed the ultimate decision rests solely with the provincial cabinet."

Apparently the deputy felt very strongly on this point and the debate was continued when the deputy provided me with his further opinion

on the issue. I thanked him for his views and finalized this file in the following terms:

> "Unfortunately, I feel a response is indicated as I am not in agreement with your interpretation of the minister's role with respect to petitions that require cabinet consideration pursuant to section 18 of *The Union Hospital Act*. While there is no doubt that it will take the initiative of the Minister of Health in order to place the matter before cabinet, I am not satisfied that the legislation contemplates or authorizes, any discretion to the minister in this regard. The section speaks in mandatory terms where the necessary percentage of municipal residents support withdrawal and I am satisfied legally that the minister does not possess a discretion in this regard. Accordingly, as indicated in earlier correspondence, I am satisfied that the complaint in question was substantiated and that future petitions should be promptly brought to cabinet's attention. If there is a desire to confer a discretion upon the Minister of Health in this regard, then the legislation should be amended to so state. In the absence of an amendment the practice should be as indicated.
>
> I would thank you again for your observations and regret that I am unable to agree with you on this point."

RESULT: — A substantiated complaint against the Department of Health *subsequently* rectified by a referral to cabinet.

SASKATCHEWAN MEDICAL CARE INSURANCE COMMISSION

#81-13020-00-01

A complaint was received from a woman who was experiencing a problem with excessive skin surrounding her eyes and eyelids. In February of 1978, she had been advised by the Medical Care Insurance Commission that the surgical correction for this problem was considered as "cosmetic" and therefore no coverage could be provided for the surgery.

At the time this complaint was received by my office (March 1981), the complainant believed that her condition had worsened. She insisted that she was not concerned about her appearance, but rather with the physical discomfort she was experiencing as a result of the problem. Contact was initiated with the Medical Care Insurance Commission and it was suggested that the complainant consult her

family physician, in order that a referral to a skin specialist could be made by her family physician, if he considered it appropriate.

Subsequently, the complainant did consult her family physician and was referred to a skin specialist who concluded that the problem was not of a cosmetic nature and therefore should be covered by the Medical Care Insurance Commission. After a brief consulation with the Medical Care Insurance Commission, it was agreed that the corrective surgery would be covered.

The complaint file was closed on the basis that the original problem had been rectified.

DEPARTMENT OF HIGHWAYS AND TRANSPORTATION

THE WIZARD OF ID
by Brant parker and Johnny hart
I ARRESTED THIS MAN FOR LOITERING
HOW DO YOU PLEAD?
NOT GUILTY
HE WAS JUST STANDING IN THE STREET DOING NOTHING
M WITH THE HIGHWAY DEPARTMENT

by permission of Johnny Hart and Field Enterprises, Inc

. . . not according to our survey! For example:

#81-14000-10-04

To illustrate the kind of co-operation that we regularly receive from the Department of Highways and Transportation, I am reproducing here, an extract from a report by one of my Regina investigators on an enquiry we received from a convent near Ituna and the results of our investigation:

> "COMPLAINT — That the approach (driveway) to the Sister's property extending east of Highway #310 on the northerly outskirts of Ituna, was badly in need of repair and maintenance due to the young drivers of the town using that area to make U-turns — usually at high rates of speed. She had requested assistance from the town council, who refused, saying it was the R.M.'s responsibility, who told her it was the Department of Highways, and the local engineer referred her back to town council.

INVESTIGATION — Neither the Department of Highways head office, nor the district engineer in Yorkton (responsible for the Ituna area) were aware of the situation. On an aerial photo of the northerly portion of Ituna, the portion of the highway and road allowance that the department was responsible for, was mapped out.

I attended at Ituna and found that the easterly edge of the pavement of Highway #310 was being broken away by traffic and there were numerous deep ruts and holes adjacent to the paved edge; so much so that a vehicle had difficulty in entering the driveway to the convent. The rough area extended from the northerly boundary of the driveway entrance to approximately 100' south of the driveway, and was well within the responsibility of the department.

On hearing of the condition and location of the damaged portion of the surface, the district engineer stated they would attend and provide the necessary equipment and personnel to level and pack the approach. Additionally, 4 x 4 posts would be installed, extending from the driveway south, to discourage local traffic from using the approach to make U-turns. The department will maintain the approach as required.

RESULT — Substantiated complaint, rectified by the department.

HIGHWAY TRAFFIC BOARD

#81-14010-10-25

On May 1, 1977, the province changed its driver's license requirements for those operators who held a chauffeur's license to a driver's license classification system. The classified driver license program required drivers who operated certain classes of vehicles, from private motor cars (Class 5) to power and semi-trailer units (Class 1), to convert to the class of license required to operate that vehicle.

Prior to the change-over date, the Department of Finance (responsible at that time for issuing licenses) reviewed the chauffeur files and mailed out applications to all those possessing a chauffeur's license, asking them to complete the four part application form and return it. The form identified the driver, indicated the class of vehicle he/she normally drove, the class of license required and, lastly,

contained a certification that required the signature of the vehicle owner, that the applicant normally drove the class of vehicle stated on the application. Once the certification was signed and returned, the applicant was issued with that level of license.

Although, persons applying for a classified license (other than class 5) since May 1, 1977, must submit a medical report with the application, none was required at the time of conversion to the new system. This in effect, 'grandfathered' all drivers that held valid licenses prior to the time of conversion. In addition to other medical requirements, all license holders must meet minimum vision standards as set out in the Canadian Medical Association Guide for Physicians in determining fitness to drive. These guidelines were adopted by the Highway Traffic Board on May 1, 1977. Applicants failing to meet these standards since that date are only issued the class of license they are medically fit to hold.

My office received a complaint from a person who had been refused a Class 1 driver's license by the Highway Traffic Board and who faced termination by his employer unless he could obtain one.

He had been driving for some 23 years and had held a chauffeur's license since 1966, driving semi-trailer and power units from that time. He had been employed by the same firm for over 12 years, driving a three-ton power unit and trailer equipped with air brakes and with a gross vehicle weight of 46,000 pounds; averaging approximately 120,000 miles annually. In December 1979, he was stopped by a Highway Traffic Board officer for a routine check. The officer noted that our complainant held a Class 3 license and that a Class 1 was required for the vehicle being driven. He was instructed by the officer to apply for the higher class license. He made application but was required to submit a medical report with it, as is required for new applicants.

His medical report revealed a myopic astigmatism condition in his left eye accompanied by a convergent squint. More simply, he was short sighted in that eye, which deviated inward and the visual acuity was less than the minimum standard set by the medical guidelines.

Because of the condition of this eye, his vision was not binocular. The guidelines only provide standards for binocular vision for Class 1 licenses. Also, his peripheral vision was somewhat less than normal. The Board refused to authorize issue of a Class 1 license, based on the information contained in the report.

The applicant was examined by specialists. All agreed that he did not meet the stated standards. However, it was also agreed that his condition was a congenital one with the result he had had to make the necessary adjustments all his life and likely had compensated for his disability and mitigated any risk. It was also pointed out that he had a good sense of perception and because of his problem, his compensating for it may have resulted in better peripheral vision than a lot of other drivers. The specialist also confirmed that, apart from the usual problems associated with aging, his condition should not worsen.

Investigation revealed that my complainant had inquired at the local license issuing office in early November 1976, when he was filling out his conversion application, as to what class of license he would require for the unit he was operating and was apparently wrongly informed that a Class 3 license would be adequate. After completing his portion of the application for converting from a chauffeur's license to the newly introduced classified license, his employer certified the type of vehicle he was operating, however, neglected to designate the class of vehicle involved, which was a Class 1 vehicle.

The applicant had a virtually accident free driving record even though he averaged 120,000 work miles per year. A minor single vehicle accident in 1973 was not attributable to driver error or to his vision.

According to my complainant he had always imposed certain precautions on himself while driving the heavier units. He avoided congested areas whenever possible, leaving on his runs before the normal heavier traffic started, and avoiding night driving whenever possible.

The Board had refused to authorize the issue of Class 1 license because our complainant failed to meet the vision standards as set out in the guidelines. Clearly, he did not meet those standards, which the Board, on advice from their medical consultant, tended to adopt as hard and fast rules. A 1979 British Columbia Supreme Court decision dealing with issue of a Class 1 license, stated in part, that a license issuing officer has a duty to decide applications with proper regard to actual fitness or ability and not solely by application of an inflexible rule.

The irony of my complainant's situation was that the 'grandfathering' policy was in place at the time he converted to a classified license. Medical reports were not required on the initial conversion and licenses were issued solely on the information contained on the conversion application forms. If he had not received some incorrect

advice, if he had reviewed the application more closely or if his employer had done so, he would have had the protection of the 'grandfathering' policy, and have received his Class 1 license. Subsequently, this would have been reviewed only upon his having an accident or some kind of similar problem relating to his driving skills.

On the basis of the investigation I concluded that my complainant's driving record, his accidental exclusion from the 'grandfathering' policy, and the information contained in the specialist's medical reports supported a reconsideration of his case by the Board. A formal recommendation that the Board reconsider its decision to refuse to issue a Class 1 driver's license, as I found its decision to be unreasonable under the circumstances, was forwarded to the Highway Traffic Board.

Even after a further review by the Board, it was unwilling to issue a Class 1 license.

A formal Report and recommendation was then prepared and forwarded to the Minister in charge of the Highway Traffic Boad. While it was recognized that he could not direct the Board to vary its decision, he could ask to have the case reviewed again. The minister did so and the Board complied but it, again, was unwilling to change its original decision. My Report and recommendation was then forwarded to cabinet for consideration by it.

Cabinet, while recognizing the independence of the Highway Traffic Board, advised the Chairman of the Board that the case made by the Ombudsman had merit, that cabinet was in agreement with it and that it was asking the Board to again reconsider its decision.

The Board, after a further detailed review of the case agreed to issue a Class 1 license, subject to certain express conditions regarding medical examinations and reports from an opthamologist. The Board also reserved the right to monitor and review the matter should there be any deterioration in our complainant's eyesight that could affect his driving ability. He received a Class 1 license shortly thereafter.

DEPARTMENT OF LABOUR

#80-16000-40-10

This complainant was a former employee of a Regina company who had been unsuccessful in attempting to collect wages owing to her. Her complaint was primarily against the Department of Labour

although she was also perturbed that the Sheriff's office had not moved as quickly as she desired to enforce her judgment against the company. Both complaints were opened for investigation although the complaint against the Sheriff was quickly determined to be a not substantiated complaint and closed.

The complainant had lodged a complaint regarding unpaid wages with the Department of Labour on March 16, 1979. The department made an assessment of the wages owing on April 10, 1979, and so advised her employer. However, as the department was unable to recover the wages owing, the department filed a certificate with the court as authorized by section 60 of *The Labour Standards Act*. The filing of the certificate occurred on or about October 23, 1979, and the effect of the certificate was the same as a court judgment. In these circumstances, a member of the public who is owed wages has the obligation to collect the money and not the department. This complainant did so through the Sheriff's office but to no avail. At this point she lodged her complaints with my office.

Our investigation quickly disclosed the fact that the employer had been petitioned into bankruptcy and that this had occurred without the knowledge of the department within a week of her first having approached the department in March of 1979. In other words, all the intervening time and effort by the complainant and the department since April of 1979, had been entirely wasted. The effect of the bankruptcy in April 1979 was to deny her any hope of collecting her wages pursuant to the certificate filed in October of 1979.

Indeed, the departmental files make it very clear that the department was unaware of its oversight until February 26 ,1980. A note to the file stated as follows:

> "February 26, 1980 — I am informed for the first time that _____ filed bankruptcy on April 16, 1979, I cannot understand why _____ (he) never told me of this in the past."

Fortunately, our investigation disclosed another issue that could assist our complainant in obtaining her wages. This issue had apparently also been missed by the department.

Section 63 of *The Labour Standards Act* states that the directors of a corporation are jointly and severally liable for up to six months wages due employees while they are acting as directors.

Our search of company records disclosed that there was a director of the company who was in place at the relevant times and unlike

the other director, was *not* a bankrupt. He likely had not been pursued by the department either because he had resigned as a director by the time this individual's complaint was being investigated by the department, or merely through oversight. In any event, I recommended that the department pursue this individual for the unpaid wages.

The department agreed to do so in April of 1981, and had collected the monies by July, more than 2 years after she first approached the department.

The investigation was closed as a substantiated complaint ultimately rectified by the Department of Labour.

DEPARTMENT OF NORTHERN SASKATCHEWAN

#81-19000-10-02

In *December of 1980* we received a letter from an employee of the Department of Northern Saskatchewan. It read as follows:

> "On the *16th of January 1980*, I commenced work as a _____ in the community of Ile-a-la-Crosse.
>
> Under the terms of the contract I am entitled to claim travel expenses. *The expenses were forwarded to the D.N.S. head office in late January* for approval and reimbursement by the Department of Revenue.
>
> My travel expenses and commencement allowance total six hundred and seventy three dollars.
>
> I am unable to determine the exact problem in issuing payment for my travel expenses.
>
> If reimbursement has not been made by the end of December, I am prepared to initiate further legal action.
>
> Would you kindly help me in obtaining this payment?"
>
> *(emphasis mine)*

We gave notice of our intention to investigate the matter in January of 1981 and the department began to move on the matter shortly after.

On *February 13, 1981*, I received a letter from the Deputy Minister of the Department of Northern Saskatchewan that said, in part:

> "Through an unfortunate circumstance, Ms. M's. original set of moving expense receipts were lost. A new set had

to be raised and re-submitted for processing. This has been done.

Our Program Administrative Officer has apologized to Ms. M. on behalf of the department, and has ensured that the new set of documents has been processed for payment. *By the time you receive this Ms. M. should have been reimbursed.*"

(emphasis mine)

As I did not share the deputy's optimism, we kept our file open until the payment was received. It took until *May 25, 1981*, for our complainant to receive her cheque.

I had little difficulty in finding the complaint substantiated on the grounds of unreasonable delay. As our attempts to determine the cause of the "unfortunate circumstances" proved unsuccessful, I found it necessary to conclude the file without any further insight into the reasons behind the delay.

SASKATCHEWAN HOUSING CORPORATION

#77-590-05
#78-18100-00-06
#81-18100-00-05

THE WIZARD OF ID
by Brant parker and Johnny hart
CAN YOU PUT A CURSE ON A BUREAUCRAT?
JUST FILL OUT THIS FORM IN TRIPLICATE AND I'LL TAKE IT TO THE COMMITTEE AND LET YOU KNOW IN THREE WEEKS
THEY'VE TAKEN OVER THE WORLD!

by permission of Johnny Hart and Field Enterprises, Inc.

#77-590-05

On May 31, 1977, my office received a letter of complaint from several residents of Carrot River, Saskatchewan. These individuals had purchased homes from the Saskatchewan Housing Corporation under the Rural Housing Programme. They were dissatisfied with the construction of their homes and felt that several deficiencies needed attention.

My office asked the Saskatchewan Housing Corporation for a report on this matter. Upon receiving notice of these complaints, the

Saskatchewan Housing Corporation conducted an investigation which confirmed that these individuals were experiencing problems with the housing units. The individuals were asked to prepare a list of the problems being experienced with their homes and submit the list to the corporation. Arrangements were made by the Saskatchewan Housing Corporation for a construction crew to commence repairs and alterations to the homes as of *July 25, 1977*. As these deficiencies were apparently being addressed by the Saskatchewan Housing Corporation, I, perhaps mistakenly, concluded this case and considered the complaint to have been substantiated and rectified.

#78-18100-00-06

In the course of a community meeting in Nipawin in *June of 1978*, I met and received a related complaint from two other 'purchasers' of rural housing homes in Carrot River. They indicated that their homes still had some deficiencies that had not been resolved when we investigated the matter the first time. They also indicated that 4 or 5 telephone calls to the Corporation had produced ample assurances that an inspector would be out, but no inspector had materialized. In April of 1978, they gave up on telephone communications and wrote to the Corporation but had not even received an acknowledgement in return. They also indicated that they had been assured that they would receive their title and mortgages by March of 1978 but that this had not occurred.

As title matters would depend on the resolution of the physical deficiencies, we concentrated our efforts on this aspect of the matter. In our complainant's case, the physical defect with their home was a significant one. Her basement had been built approximately 18 inches deeper than all the other houses on her block with the result that sewage from the rest of the block flowed into her plumbing. The Corporation could not locate the April 1978 letter from the complainant but ultimately did get an inspector to their home. The Corporation then agreed to repair the plumbing in the *spring of 1979*. However, by follow-up on the file, it appears that the repairs were not completed until the *fall of 1979*. As the repairs performed satisfactorily over the winter of 1979-80, I closed my file on this complaint on the assumption that title would be issued as a matter of course, now that the repairs were complete.

Again, I had made an assumption that, with the benefit of hindsight, should not have been made involving complaints against the Corporation.

#81-18100-00-05

On *May 4, 1981*, I received the following letter from a group of the same residents in Carrot River:

> "We would like to register a complaint against the Saskatchewan Housing Corporation. This corporation has 17 houses in Carrot River which were built under the Rural and Native Housing Programme in 1976-77. These houses were to be mortgaged to low income families under the Rural Housing Programme. The possession date was March 1, 1977, at which time we signed a tenancy at will agreement, which was to be in effect until the mortgages were processed, at which time any monies paid were to be applied to the mortgages. *It is now four years later and we still have no mortgages.*
>
> When your office approached Saskatchewan Housing before, they assured you that the mortgages would be issued once the houses had been repaired to bring them to C.M.H.C. standards. As far as we know, the repairs have been completed but we have heard nothing about the mortgages. If we contact Saskatchewan Housing, they assure us that the mortgages are being processed but three years of processing seems rather ridiculous! *Some of us are beginning to wonder if these houses are really for sale or if we have been sucked into a great public rental scheme.*
>
> Without mortgages we cannot qualify for tax credits, property loans nor would we be able to recoup any of our investments should we have to move. Also, we have been paying fire insurance (payable to Saskatchewan Housing) and upkeep which we wouldn't be doing in a rental home. Hopefully, your office could look into this and put some pressure on to get something done."
>
> *(emphasis mine)*

On the basis of the above noted letter, I opened a further investigative file involving the Corporation. The initial response received from the Saskatchewan Housing Corporation (*May 1981*) confirmed that the mortgages had still not been issued. The explanation was that a dispute had ensued between Saskatchewan Housing Corporation and Canada Mortgage and Housing Corporation concerning the cost of the housing units. In particular, the cost had exceeded the prescribed limits and thus the question arose as to who should be responsible for the additional costs. The Saskatchewan Housing Corporation insisted that they did not want these additional costs passed on to the purchasers as in many cases, the additional costs

were due to inexperienced workers. The Corporation advised that a verbal agreement had recently been reached with C.M.H.C. and that a formal agreement was anticipated in the *summer of 1981*.

In *September of 1981*, I was advised by the Saskatchewan Housing Corporation that the problems involving the Rural and Native Housing Programme had now been resolved and that the mortgages would be processed as soon as possible. I was advised that Carrot River would be one of the first areas. The Corporation advised that the mortgages would be retroactive to the date of possession and that home owners would be eligible to receive property improvement grants, retroactive to that time.

I am advised that a meeting was held in the community of Carrot River on the evening of *December 10, 1981*, wherein the home owners were provided with "offers to purchase". These offers were retroactive to the date of possession.

Recent contact by my office with a spokesman for the complainants confirms that the "offers to purchase" presented to them appear quite satisfactory. Although the mortgages themselves are still not issued, the home owners at least have seen visible progress towards the issuance of the mortgages.

The Corporation stated that there are approximately 900 mortgages to be issued under this programme. Optimism has been expressed that all of these mortgages will be issued during the spring and/or summer of 1982.

I can assure the members that this file will *not* be closed until all residents of these properties have received both their titles and their mortgages.

SASKATCHEWAN TELECOMMUNICATIONS

#81-25000-10-06

A couple lodged a complaint with my office on March 12, 1981, with respect to the amount of charges levied by Sask-Tel for services rendered in relocating a telephone answering service in Estevan.

The complainants indicated that their initial inquiries with representatives of Sask-Tel resulted in an estimate of costs for the relocation of the equipment and services of about $10,000. Being concerned as to the amount, they sought a re-assessment by a Sask-Tel representative. He verbally stated that the cost would not be in the area of $10,000 but about $3,000 and perhaps slightly less than

that, because the corporation could utilize lines that were already in place in an alley directly behind the new premises. After the relocation of the equipment and services was completed, a bill in the amount of $8,584.72 was received by this couple. They felt that the amount charged was excessive when one considered the earlier verbal estimate of approximately $3,000.

Sask-Tel was notified of this complaint and promptly conducted an "in-house" review of this account.

On April 13, 1981, our office received a letter from the President of Sask-Tel, indicating that after their review of charges levied by the Corporation for this service, they had determined that different facilities were utilized than had initially been planned. The difference in charges for services that had in fact been rendered resulted in a saving to the complainants of $4,950. In addition to this amount, there was also an additional tax credit. The total saving to the complainants amounted to $5,197.50.

It was subsequently confirmed by our complainants that the above amount had been credited to them by Sask-Tel and I closed our file as a substantiated complaint promptly rectified through the efforts of Sask-Tel.

DEPARTMENT OF SOCIAL SERVICES

> *"Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality".*
>
> Article 22, Universal
> Declaration of Human Rights.

> *"No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks".*
>
> Article 12, Universal
> Declaration of Human Rights.

#81-23000-50-04

This complainant wrote to my office concerning financial difficulties and child welfare problems which he was encountering with the Department of Social Services. In particular, the complainant was unhappy with the fact that a trustee had been appointed to assist in the handling of his finances.

In reviewing the departmental file on this case, it became apparent that the complainant had been a recipient of financial assistance from the Department of Social Services for at least six years. The extensive documentation on file revealed that the complainant was somewhat unstable and that he had encountered great difficulty in trying to locate either part-time or other employment. Similarly, over a period of years, the complainant had demonstrated his inability to handle his finances in a responsible manner. It was therefore, in my view, appropriate that the Department of Social Services had required the complainant to utilize the services of a trustee to assist in the handling of his finances.

During the course of this investigation, it also became apparent that the client had been issued funds to purchase furniture by the Department of Social Services by way of advances. These advances were issued to the client over a number of years and in most cases, were recovered from the client's monthly social assistance entitlement. Similarly, the complainant had also received an overpayment of social assistance benefits as a result of not reporting some employment income he had received. The combination of the overpayment recovery and the recovery of the advance which was issued for the purchase of furniture seemed to have contributed directly to the financial problems which this family was experiencing.

My office advised the Deputy Minister of the Department of Social Services of the problems related to the purchase of furniture and the resultant financial problems for the complainant and his family. Upon reviewing this extremely complicated file, the deputy minister agreed that much of the furniture which he had been required to purchase could have been considered as a 'special need' rather than 'advance of the household allowance'. Since the money had been calculated as a household allowance and was being recovered from his social assistance benefits, the department eliminated the overpayment which remained on his file ($614.31) and credited the complainant with the remaining $245.89. A cheque was issued to the complainant in this amount.

A second, and perhaps more important issue which was raised by this file related to the apprehension of the complainant's children by the Department of Social Services. A review of the information available to the department confirmed that there was ample cause for being concerned about the welfare of the complainant's children. At the same time, it also became apparent that the departmental staff lost their objectivity while dealing with this family. In fact, it would seem that the department was trying to establish a situation whereby the children could be apprehended from the complainant's home rather than continuing their efforts to assist the family in becoming more responsible. A particular example of this attitude is demonstrated in the remark of a childcare worker:

> *"Monitor carefully over the next month as the kids are open to abuse due to the high degree of stress we have created. Mr. _____ will quickly become paranoid through his feelings of being unjustly victimized which I hope legal aid and human rights won't reinforce."*
>
> *(emphasis mine)*

While it is true that the introduction of stress into a family unit 'may' be a well founded social work practise in limited circumstances, I did not believe that our complainant presented such a case. The Deputy Minister of Social Services agreed with my position that placing additional stress on this family was inappropriate. The concerns of the deputy minister were raised with the relevant regional office of the department.

I was satisfied that the child welfare concerns identified in this case represented an entirely inappropriate response to an extremely difficult and complicated situation. As I did not believe that any further type of remedial action was possible, I concluded the file.

CORRECTIONS BRANCH, DEPARTMENT OF SOCIAL SERVICES

> *"Everyone has the right not to be subjected to any cruel and unusual treatment or punishment".*
>
> *Article 12 of the Canadian Charter of Rights & Freedoms.*

> *"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".*
>
> *Article 5, Universal Declaration of Human Rights.*

"Excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishments inflicted".

Eighth Amendment, Constitution of the United States of America.

#78-23000-40-10
#80-23000-40-40
#80-23000-40-57
#80-23000-40-83

During 1979 and 1980, we had received a number of complaints from inmates in the old Prince Albert Correctional Centre involving the methods used by centre authorities to restrain, silence and limit anti-social behaviour by inmates in segregation areas of the centre. While the move to the new centre mitigated some of these problems, I wished assurances from the system that some of the methods used in the past would be prohibited in the future.

My report to the Deputy Minister of Social Services read, in part, as follows:

> "I believe the problems that we have identified and the basis for my tentative findings and recommendations can best be illustrated by drawing on the product of four specific investigations.
>
> By way of background, I am attaching edited copies of the investigational reports I received from my staff on these files. The reports are from three different investigators and include a report by an investigator ordinarily with my Regina office.
>
> *Generally, my findings and recommendations are that these investigations disclosed some conduct by staff that constitutes cruel and unusual punishment in both the American and Canadian sense of the term and that this type of conduct should be prohibted by the department. While the absence of adequate psychiatric support systems and facilities in the old centre occasionally put the staff in an almost untenable situation, this fact alone does not make the application of certain kinds of restraints and the reasons for their application, acceptable. The apparent absence of adequate support systems is the fault of the Corrections Branch and the Department, not the staff. The staff have generally been left with little more than their own ingenuity to rely upon in*

coping with unmanageable inmates. While the investigations disclose that some staff conduct certainly went beyond reasonable and acceptable limits, the escalation of the staff responses to these inmates (as disclosed by these investigations) should have been entirely predictable from the branch and the department's point of view.

TENTATIVE FINDINGS

In my findings and recommendations, emphasis is given to the reasons for applying restraints as there appears to be a valid basis for distinguishing between restraints applied to protect an inmate from himself or to protect others from the inmate and those applied for other reasons. *For want of a better term, I have used the word 'control' to refer to those situations where the use of constraints 'may' be justified to prevent injury to the inmate or others.*

My specific findings per inmate and general findings are as follows:

#78-23000-40-10

1. That this inmate was handcuffed to the bars for 7½ to 8 hours and that for approximately 2½ hours of that time each of his arms and legs were handcuffed in a spread-eagle fashion with his back to the bars and with his arms over his head.

2. That the handcuffing was not for control reasons but in an attempt to induce this inmate to be quiet and, in part, to retain the services of the 'sitter' who was threatening to leave his duties because of the noise created by this inmate.

3. That the handcuffing to the bars of this inmate for the reasons disclosed by my investigation constituted cruel and unusual punishment and, even if the reason for the application of restraints had been for the inmate's protection or to protect others from him, both the total length of time he was handcuffed to the bars and the fact of being cuffed in a spread-eagle fashion for 2½ hours, or at all, would have been excessive.

4. That his complaint *is* substantiated.

#80-23000-40-40

1. That this inmate was handcuffed by the arms to the bars and, on at least one occasion, his entire head was taped.

2. That after approximately one hour the tape was removed from this inmate's head and hair in a fashion that could only have produced severe pain.

3. That the reasons for the use of restraints and gagging in these circumstances appeared to be a mix of control reasons and the need to reduce noise but regardless of the reasons, the taping of the head and the removal of the tape (and inevitably much of his hair) was excessive.

4. That this inmate was in desperate need of psychiatric assistance and treatment, and, because of a number of criminal justice system failures including those related to the correctional system, he did not receive sufficiently direct or prompt psychiatric help at the centre or otherwise.

5. That this complaint *is* substantiated.

#80-23000-40-57

1. That this inmate was a very real control problem and that, in the absence of alternatives, his handcuffing for varying periods of time on many occasions was necessary to prevent him from doing injury to himself and others.

2. That the methods of restraint used in these circustances were used for purposes of control and were *not* so excessive as to constitute cruel and unusual punishment.

3. That this complaint is *not* substantiated.

#80-23000-40-83

1. That this inmate, from 11:10 a.m. on October 9, 1980, until 6:00 p.m. on October 10, 1980, was almost continuously kept in handcuffs and cuffed to the bars of his cell.

2. That the handcuffing was not for control reasons but in an attempt to induce this inmate to stop his offensive conduct, i.e. — spitting and swearing at staff.

3. That for approximately 1½ to 2 hours of the 30 hours that this inmate was handcuffed, he was cuffed to the bars in a

standing position with his arms raised above his head and with his back to the bars.

4. That I am unable to either substantiate or not substantiate the allegation that a staff member threw a pot of hot coffee on this inmate. The staff member states that the coffee was accidentally spilled when he slipped while moving to avoid being spat upon by the inmate. There is some support from other staff of the staff member's statement but it is insufficient in my view to categorically find the complaint to be not substantiated. In other words, I am unable to arrive at a conclusion with respect to this aspect of the complaint.

5. That the handcuffing to the bars of this inmate for the reasons disclosed by my investigation was cruel and unusual and even if he had been handcuffed exclusively for control reasons, doing so almost continuously for approximately 30 hours would have been excessive.

6. That this inmate required more psychiatric and medical assistance than he received. This is evidenced by the fact that he attempted suicide on October 22nd and admitted himself to the psychiatric unit at a local hospital upon his discharge in February of 1981.

7. That this complaint *is* substantiated.

GENERAL

That the Corrections Branch and the Department of Social Services failed to provide adequate psychiatric support *at* the former Prince Albert Correctional Centre and that the new centres are in only a marginally better position to provide these services.

REASONS FOR FINDINGS

The origin of the term 'cruel and unusual punishment' is the Constitution of the United States, and Constitutional Amendment #8 in particular. The U.S. courts do have a much greater role than the Canadian courts regarding decisions and discipline in the penal system. Accordingly, the presence of this constitutional limitation has provided an opportunity for the American courts to carefully define this term in the context of inmate discipline and control. In the past decade there has been some recognition of this principle by Canadian courts.

My reading of 15 or so of the more relevant U.S. decisions leads me to the conclusion that the test of what constitutes cruel and unusual punishment is staff conduct that was excessive, unnecessary or inappropriate to the purpose for which the particular form of discipline was applied.

Some of the judicial comments in one of the leading U.S. cases (*Landman v. Royster*, 333 F. Supp. 621 (1971)) are hauntingly familiar. For example:

> . . . at page 647: — '. . . Likewise, to restrain or control misbehaviour by placing an inmate in chains or handcuffs in his cell is unconstitutionally excessive. The evidence showed that in Belvin's case this practise left him with permanent scars, and in his case and that of Johnson it caused lack of sleep and prolonged physical pain. Neither man was released to respond to a call of nature, nor could they eat. Further details are not necessary in order to reveal that it constituted physical torture.
>
> Corporal punishment should never be used under any circumstances. This includes such practises as handcuffing to cell doors or posts, shackling so as to enforce cramped position or to cut off circulation, deprivation of sufficient light, ventilation, food or exercise to maintain physical or mental health, forcing a prisoner to remain awake until he is mentally exhausted, etc.
>
> Corporal punishment of this variety is outmoded and inhuman. The Constitution forbids it, and this Court shall enforce that ban. It is not contended that a man in a locked solitary cell cannot be kept from escaping, injuring others, or destroying things of value. The only justification for the policy is to prevent self injury. (Ironically, Belvin seems to have been seriously cut by his 'protective' chains, either despite or on account of his own efforts). The Court simply cannot conceive that no less drastic means can achieve that legitimate end . . . Here the evidence shows that Belvin's fetters were put on without medical approval. A doctor, if called on for a recommendation, might well have prescribed some form of drug treatment. Only recently have penitentiary officials sought to borrow some strait

jackets for such emergencies. Indeed to a great extent the control of violent inmates has been left in the hands of guard personnel, who call to their superiors' attention incidents such as Belvin's experience only after the fact by brief written reports. Thus efforts to explore alternative treatment methods have not been exhausted; indeed they have hardly been commenced. On this showing the practise of fettering inmates in closed cells is both cruel and unnecessarily so.'

PROPOSED RECOMMENDATIONS

1. THAT the practice of taping and gagging inmates be terminated immediately regardless of the reasons for doing so.

2. THAT the use of restraints of any kind be limited to those situations where restraints are essential to prevent an inmate from either harming himself or others, and only until medical assistance can be obtained, i.e. — that the use of restraints be prohibited where they are utilized to reduce noise or to stop unacceptable social behaviour, etc.

3. THAT medical advice be immediately obtained whenever restraints are used, and that a medical report be provided to the Director or Acting Director within 24 hours of restraints being used.

4. THAT restraints not be used until the approval of the Deputy Director, Security or the Acting Deputy Director, Security, is obtained and that every incident involving the application of restraints be the subject of a report to the Director or the Acting Director within 24 hours of the time the use of restraints was approved.

5. THAT sufficient psychiatric and medical services be available *at* each correctional centre to ensure that immediate resort to these services can be made as soon as an inmate is identified by nursing and other staff as being or appears to be becoming unmanageable."

After meeting with department officials to discuss the issues, I was satisfied that the assurances of the department limiting the use of restraints coupled with the move to the new facility in Prince Albert, greater inmate access to the Regional Psychiatric Centre in

Saskatoon, and some new systems to audit 'unmanageable inmates' met the spirit of my recommendations and should prevent a repeat of the extreme situations we encountered in these investigations. In addition to the other steps, the department gave an unqualified acceptance with respect to the prohibition on the use of gags and tape in the following terms:

> "The taping of heads and gagging to reduce noise levels or to enforce other controls are unacceptable practices. They were used only in the old Prince Albert Centre and were discontinued in July, 1980. A central directive will be issued outlining acceptable methods of restraint in our centres."

Although we will continue to monitor the situation, I closed these particular investigations on the above basis.

DEPARTMENT OF URBAN AFFAIRS

This department is a good example of a department that, in our view, is at the high end of average in its service to the public. It was selected primarily because of the availability of good case examples. However, it can be seen from our survey that we view a large number of departments and agencies to be in the same category and the cases could have been drawn just as easily from our past experience with the Departments of Agriculture, Education and Continuing Education, the Saskatchewan Medical Care Insurance Commission, S.G.I., or the Workers' Compensation Board.

#81-18300-20-05

This complainant was recently widowed and likely for the first time, found it necessary to personally apply for a Property Improvement Grant. Immediately after her husband's death in March 1981, she had left the home and some months later applied for the grant. She was advised that vacant homes did not qualify for the grant and turned to our office for assistance.

Fortunately, the definition of a 'principal residence' in the legislation involves a home that had been occupied by the applicant for at least six months ending in the year of application. It took no more than a telephone call to Property Improvement Grant officials to rectify the situation and to enable her to receive her cheque.

#81-18300-00-01

I believe the closing correspondence on this file can best illustrate the point I am attempting to make regarding departmental attitudes.

My letter to the deputy minister indicated that I lacked the jurisdiction to investigate this file but in doing so expressed concern over one aspect of the complaint. The letter read as follows:

> "Having completed our review of the legislative aspects of the problem raised by this complainant and the role of the Department of Urban Affairs, I am writing to confirm that I lack the jurisdiction to formally investigate this matter and therefore, will be closing my file. Even though I am unable to pursue the matter, one issue did arise out of our preliminary inquiries that I would like to bring to your attention. The legislation as presently worded imposes the same notice obligations on a resort village as it does on other municipalities with respect to both elections and re-zoning. *I believe the ratepayers of Candle Lake who opposed this particular development may well have a valid point when they are critical of the fact that a resort village such as Candle Lake can meet its statutory obligations with regard to notice by placing an advertisement in the Prince Albert Herald that is unlikely to reach the majority of the ratepayers* unless the advertising happens to be placed in the summer months. In this example, Candle Lake has 20 permanent residents and something like 730 seasonal residents. Surely it would make sense to give some consideration to differentiating between resort villages and other municipalities in the legislation.
>
> I am sure that you would agree that there is an element of unfairness if the notice obligations are the same for *all* municipalities.
>
> Your comments would be appreciated.

The following response was typical of many of the responses we received from departments and agencies even where I lack the jurisdiction to initiate an investigation and to formerly recommend changes. The deputy minister's letter read as follows:

> "Thank you for your letter of October 19, 1981, in which you raise the issue of statutory requirements respecting giving notice to resort village ratepayers.
>
> You suggest that the present requirement regarding publishing notices should be changed in view of the fact that property owners in resort villages do not live in the municipality in question.

I am pleased that you have raised this point. In our current review and redrafting of *The Urban Municipality Act*, we have been giving consideration to a different requirement for notices in resort villages. *Specifically, a superior system would probably involve a requirement that the municipality mail notices to assessed owners of resort villages in respect of planned local improvements and other matters.*

We have a working committee in this department which is currently redrafting *The Urban Municipality Act*. We will be discussing the matter you raise in the near future. Hopefully, we can improve the legislation in the direction you indicate.

I invite you to contact me again if you have any further questions or concerns."

PART III

STATISTICS

INTAKE INFORMATION – 1981

Total complaints ..... p. 53

Complaints *not* against Saskatchewan government departments and agencies – by subject matter ..... p. 53

Complaints received against Saskatchewan government departments and agencies – by department and agency ..... p. 54

Method by which complaints received ..... p. 56

Geographical distribution of complaints
– by provincial constituency ..... p. 57

– by community ..... p. 59

DISPOSITION INFORMATION – 1981

Complaints closed against Saskatchewan government departments and agencies and result – by department and agency ..... p. 61

Summary of complaints closed against Saskatchewan government departments and agencies and result – 1980 ..... p. 65

– 1981 ..... p. 65

STATISTICS

TOTAL COMPLAINTS RECEIVED – 1981

	Against Saskatchewan Departments and Agencies	Not Against Saskatchewan Departments and Agencies	Total
January	46	106	152
February	70	100	170
March	82	157	239
April	90	98	188
May	120	76	196
June	54	169	223
July	95	53	148
August	28	77	105
September	90	99	189
October	102	93	195
November	77	91	168
December	171	104	275
	1,025	1,223	2,248

COMPLAINTS OTHER THAN AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES
Jan. 1, to Dec. 31, 1981

Category	Number	%
Consumer	178	14.6
Federal	190	15.5
Municipal	58	4.7
Professionals	72	5.9
Schools	10	0.8
Courts	28	2.3
Other	687	56.2
	1,223	100%

COMPLAINTS RECEIVED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES – 1981

Department – Agency Board and Commission	Department Code No.	Totals
Agriculture – General	1000-10	12
– Family Farm Improvement Branch	1000-20	1
– Lands Branch	1000-30	11
Agricultural Implements Board	1010-00	2
Lands Allocation Appeal Board	1020-00	8
Saskatchewan Crop Insurance Board	1050-00	4
Saskatchewan FarmStart Corporation	1060-00	1
Saskatchewan Hog Marketing Commission	1080-00	1
Saskatchewan Land Bank Commission	1090-00	7
Attorney General – General	2000-10	5
– Court Services Branch	2000-20	7
Land Titles	2020-00	1
Official Guardian	2030-00	3
Saskatchewan Police Commission	2070-00	4
Saskatchewan Securities Commission	2080-00	1
Provincial Mediation Board	2090-00	1
Saskatchewan Human Rights Commission	2100-00	2
Consumer Affairs – General	3000-10	22
– Rentalsman	3000-20	13
Rent Appeal Commission	3020-00	2
Continuing Education – General	4000-10	7
– Wascana Institute	4000-20	2
Community Colleges	4500-10	4
Co-operation and Co-operative Development – General	5000-10	1
Culture and Youth	6000-10	2
Education – General	7000-10	3
Saskatchewan Centre of Arts	7060-00	1
Saskatchewan Media Corporation	7080-00	1
Environment – General	8000-10	11
Finance – General	10000-10	2
Department of Revenue	11000-10	3
– Revenue Division	11000-30	1
Government Services – General	12000-10	4
Health – General	13000-10	11
– Psychiatric Services Branch	13000-20	6
– Saskatchewan Dental Plan	13000-50	4
– Saskatchewan Hospital Services Plan	13000-60	4
Saskatchewan Medical Insurance Commission	13020-00	8
South Saskatchewan Hospital Centre	13040-00	4
Highways and Transportation – General	14000-10	9
Highway Traffic Board	14010-00	18
Saskatchewan Transportation Company	14030-00	2

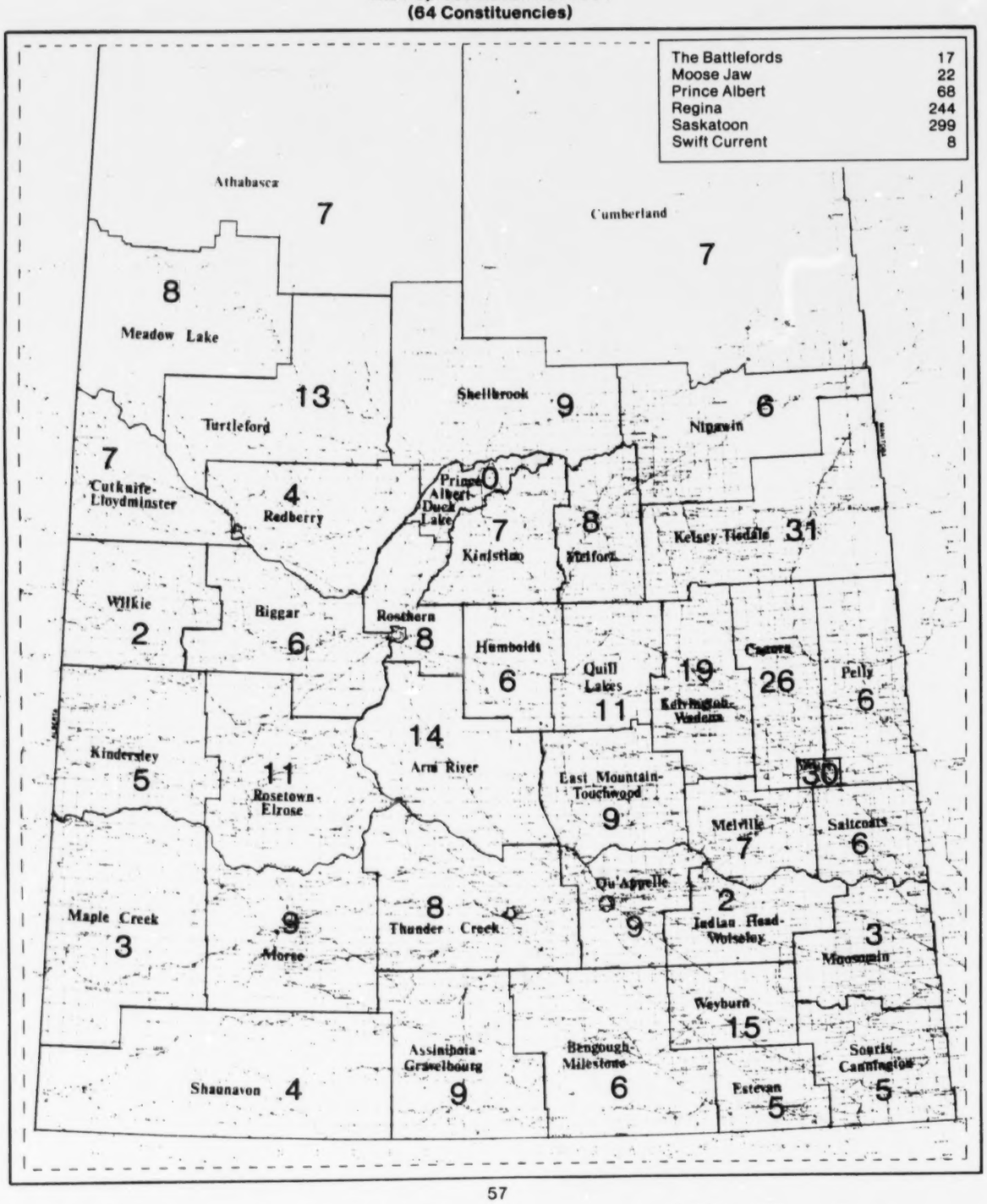
Department – Agency Board and Commission	Department Code No.	Totals
Sedco	15020-00	1
Labour – General	16000-10	15
– Worker's Advocate	16000-20	1
– Labour Services Division	16000-40	37
– Occupational Health and Safety Division	16000-50	2
Labour Relations Board	16010-00	3
Workers' Compensation Board	16030-10	118
Liquor Board – General	16040-00	1
Liquor Licensing Commission	16050-00	1
Mineral Resources – General	17000-10	1
Surface Rights Arbitration Board	17020-00	1
Potash Corporation of Saskatchewan	17030-00	2
Saskatchewan Minerals	17040-00	1
Rural Affairs – General	18000-10	12
Saskatchewan Assessment Authority	18060-00	2
Municipal Employees' Superannuation Commission	18090-00	1
Saskatchewan Housing Corporation	18100-00	22
Municipal Housing Authority	18200-00	7
Urban Affairs – General	18300-10	8
– Property Improvement Grant	18300-20	6
Northern Saskatchewan – General	19000-10	9
– Project Management Branch	19000-50	1
– Municipal Services Branch	19000-60	3
– Economic Development Branch	19000-70	1
Provincial Library	20000-10	1
Provincial Secretary – General	21000-10	1
Saskatchewan Research Council	21010-00	2
Tourism and Renewable Resources – General	22000-10	9
Saskatchewan Forest Products Corporation	22010-00	2
Social Services – General	23000-10	50
– Income Security Branch	23000-20	5
– Community Affairs Branch	23000-30	11
– Corrections Branch	23000-40	118
– Social Services Branch	23000-50	62
– Continuing Care Division	23000-60	1
Core Services	23010-00	2
Provincial Appeals Board	23020-00	3
Public Service Commission – General	24000-10	11
Public Service Superannuation Board	24010-00	1
Sask Tel – General	25000-10	48
Saskatchewan Government Insurance – General	26000-10	28
– Motor Licencing Division	26000-20	37
– Claims General	26000-30	122
Saskatchewan Power Corporation	27000-10	39
		1,025

METHOD OF LODGING COMPLAINTS AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES 1981

	Letter	Phone	Walk in	Meeting	Other	Total
January	28	10	8	-	-	46
February	22	23	23	1	1	70
March	39	13	5	24	1	82
April	24	30	30	5	1	90
May	47	35	35	1	2	120
June	20	23	8	2	1	54
July	15	56	23	-	1	95
August	1	18	7	-	2	28
September	36	35	11	-	8	90
October	26	37	31	6	2	102
November	19	34	19	1	4	77
December	26	102	30	11	2	171
	303	416	230	51	25	1,025

GEOGRAPHIC DISTRIBUTION OF COMPLAINTS AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES – 1981

PROVINCIAL CONSTITUENCIES
The Representation Act 1981
(64 Constituencies)



MUNICIPAL DISTRIBUTION OF COMPLAINTS AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES – 1981

Alingly	1	Elstow	1
Antler	1	Ernfold	4
Assiniboia	3	Esterhazy	1
Avonlea	1	Estevan	5
Aylesbury	1	Eston	1
Balcarres	1	Fort Qu'Appelle	1
Balgonie	1	Garrick	2
Batoche	1	Glaslyn	3
Beauval	1	Glenavon	1
Beechy	4	Grandora	1
Big River	1	Gravelbourg	3
Biggar	2	Guernsey	2
Birch Hills	2	Hafford	2
Bjorkdale	1	Hague	1
Broderick	1	Hanley	1
Brownlee	3	Hendon	1
Bruno	1	Hepburn	1
Buffalo Narrows	1	Herbert	1
Bulyea	2	Hodgeville	2
Calder	2	Hoey	1
Candle Lake	1	Holdfast	1
Canora	8	Hudson Bay	17
Canwood	1	Humboldt	1
Cardross	1	Ile a la Crosse	1
Carlyle	1	Indian Head	1
Carnduff	2	Insinger	2
Carrot River	1	Ituna	2
Chamberlain	1	Jansen	2
Chaplin	1	Kamsack	2
Chelan	2	Kelliher	1
Choiceland	1	Kelvington	2
Christopher Lake	1	Kenaston	1
Churchbridge	2	Kindersley	2
Coronach	1	Kyle	1
Creighton	2	La Ronge	5
Crooked River	2	Lacadena	1
Cupar	2	Lafleche	1
Cut Knife	2	Lang	1
Davidson	1	Langenburg	1
Debden	2	Langham	1
Delisle	2	Lanigan	3
Dinsmore	1	Lemberg	1
Dorintosh	1	Leroy	1
Drake	1	Lestock	2
Dundurn	2	Lipton	1
Eastend	1	Livelong	2
Ebenezer	4	Lloydminster	2
Elfros	1	Lone Rock	1
Elrose	1		

Lucky Lake	1
Lumsden	1
Maidstone	1
Major	1
Mankota	1
Maple Creek	1
Marquis	1
Martensville	1
McKague	3
Meadow Lake	4
Melfort	4
Melville	3
Mikado	1
Moose Jaw	22
Mortlach	1
Muenster	1
Naicam	3
Neilburg	1
Nipawin	3
North Battleford	17
Okla	1
Outlook	4
Oxbow	1
Parkerview	2
Parry	1
Pelly	1
Pilot Butte	1
Porcupine Plain	1
Prairie River	3
Preeceville	5
Prelate	1
Prince Albert	68
Punnichy	1
Qu'Appelle	1
Quill Lake	1
Radisson	2
Rama	1
Regina	244
Regina Beach	2
Riceton	1
Rocanville	1
Rockford	1
Rockglen	1
Rose Valley	5
Rosetown	1
Rouleau	1
St. Brieux	1
St. Denis	1
St. Louis	1
St. Walburg	3
Saskatoon	299
Shamrock	1
Shaunavon	1
Sheho	2
Shell Lake	1
Shellbrook	4
Simpson	1
Smiley	1
Southey	1
Spiritwood	1
Sturgis	3
Swift Current	8
Tisdale	2
Tompkins	1
Truax	1
Tuffnell	2
Turtleford	2
Unity	2
Uranium City	4
Val Marie	1
Vanguard	2
Vanscoy	1
Victoire	1
Vonda	1
Wadena	2
Waldheim	1
Warman	3
Wawota	2
Weldon	1
Weyburn	15
White City	1
Willowbrook	1
Wishart	1
Wynyard	2
Yarbo	2
Yellow Grass	1
Yorkton	30
Zealandia	1
Out of Province	
Alberta	6
British Columbia	4
Manitoba	1
Ontario	4
Quebec	1
Total	16

COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1981

Department - Agency Board and Commission	Department Code No.	Rectified	Not Substan't	No Juris.	Discont.	Ass't Rend.	Totals
Agriculture - General	1000-10	1	2	1	2	—	6
— Lands Allocation Appeal Board	1000-20	—	1	—	—	—	1
— Lands Branch	1000-30	1	4	1	—	—	6
Agricultural Implements Board	1010-00	—	2	—	—	—	2
Lands Allocation Appeal Board	1020-00	1	3	1	—	—	5
Saskatchewan Crop Insurance Board	1050-00	1	1	—	—	—	2
Saskatchewan FarmStart Corporation	1060-00	—	2	—	—	—	2
Saskatchewan Hog Marketing Commission	1080-00	—	1	—	—	—	1
Saskatchewan Land Bank Commission	1090-00	—	2	1	3	—	6
Attorney General — General	2000-10	1	1	1	3	—	6
— Court Services Branch	2000-20	—	2	—	2	—	4
Land Titles	2020-00	—	2	—	—	—	2
Official Guardian	2030-00	—	2	—	—	—	2
Saskatchewan Police Commission	2070-00	2	2	—	1	—	5
Saskatchewan Securities Commission	2080-00	—	1	—	—	—	1
Saskatchewan Human Rights Commission	2100-00	—	1	—	2	—	3
Consumer Affairs — General	3000-10	—	7	1	6	—	14
— Rentalsman	3000-20	2	2	—	7	—	11
Rent Appeal Commission	3020-00	1	—	—	1	—	2
Continuing Education — General	4000-10	1	2	—	4	—	7
Community Colleges	4500-10	—	3	—	1	—	4
Co-operation and Co-operative Development — General	5000-10	—	—	1	—	—	1

Culture and Youth — General	6000-10	1	—	—	1	—	2
Education — General	7000-10	—	1	2	1	1	5
Saskatchewan Centre of Arts	7060-00	—	1	—	—	—	1
Environment — General	8000-10	—	—	—	3	1	4
Finance — General	10000-10	1	—	1	—	—	2
Department of Revenue	11000-10	1	2	—	1	—	4
— Revenue Division	11000-30	—	1	—	—	—	1
Government Services — General	12000-10	—	1	—	—	—	1
Health — General	13000-10	4	1	1	2	—	8
— Psychiatric Services Branch	13000-20	—	2	1	—	—	3
— Saskatchewan Dental Plan	13000-50	—	1	—	—	—	1
— Saskatchewan Hospital Services Plan	13000-60	4	—	—	2	—	6
Alcoholism Rehabilitation Centre	13011-00	—	1	—	—	—	1
Saskatchewan Medical Care Insurance Commission	13020-00	2	4	—	1	—	7
South Saskatchewan Hospital Centre	13040-00	1	—	1	1	—	3
Highways and Transportation — General	14000-10	1	3	—	2	—	6
Highway Traffic Board	14010-00	5	4	1	6	2	18
Saskatchewan Transportation Company	14030-00	—	1	—	—	—	1
Labour — General	16000-10	—	—	—	3	—	3
— Women's Division	16000-30	—	—	—	1	—	1
— Labour Services Division	16000-40	3	9	—	11	—	23
— Occupational Health and Safety Division	16000-50	—	—	—	1	—	1

Labour Relations Board	16010-00	–	1	–	–	–	1
Workers' Compensation Board	16030-10	12	19	–	75	2	108
Liquor Board — General	16040-00	–	1	–	–	–	1
Potash Corporation of Saskatchewan	17030-00	–	–	–	1	–	1
Saskatchewan Minerals	17040-00	–	–	–	1	–	1
Rural Affairs — General	18000-10	–	1	5	4	–	10
Municipal Employees' Superannuation Commission	18090-00	–	1	–	–	–	1
Saskatchewan Housing Corporation	18100-00	4	2	1	6	–	13
Municipal Housing Authority	18200-00	1	2	–	–	–	3
Urban Affairs — General	18300-10	–	–	1	5	–	6
— Property Improvement Grants	18300-20	4	1	–	2	–	7
Northern Saskatchewan — General	19000-10	1	2	–	7	–	10
— Resource Development Branch	19000-20	–	1	1	1	–	3
— Social Services Branch	19000-30	1	2	–	–	–	3
— Project Management Branch	19000-50	–	4	1	4	–	9
— Municipal Services Branch	19000-60	–	2	–	1	–	3
— Economic Development Branch	19000-70	–	–	–	1	–	1
Provincial Library	20000-10	–	–	–	1	–	1
Provincial Secretary	21000-10	–	–	–	2	–	2
Saskatchewan Research Council	21010-00	1	–	–	–	–	1
Tourism and Renewable Resources — General	22000-10	2	2	–	1	–	5
Saskatchewan Forest Products Corporation	22010-00	–	1	–	–	–	1
Social Services — General	23000-10	–	3	1	36	2	42
— Income Security Branch	23000-20	–	1	–	2	1	4
— Community Affairs Branch	23000-30	3	3	2	10	–	18
— Corrections Branch	23000-40	15	59	–	27	–	101
— Social Services Branch	23000-50	5	8	1	42	2	58

Core Services	23010-00	—	1	—	1	—	2
Public Service Commission — General	24000-10	—	4	—	—	—	4
Sask Tel — General	25000-10	8	6	—	21	1	36
Saskatchewan Government Insurance — General	26000-10	6	9	1	11	—	27
— Motor Licencing Division	26000-20	3	12	—	14	2	31
— Claims General	26000-30	16	24	—	31	2	73
Saskatchewan Power Corporation	27000-10	6	14	—	18	—	38
		122	261	28	393	16	820

SUMMARY OF COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES – 1980

	Rectified	Not Substantiated	No Jurisdiction	Discontinued	Assistance Rendered	Recommendation Not Accepted	Total
1975	–	1	–	–	–	–	1
1977	4	6	–	5	–	–	15
1978	6	15	1	8	–	5	35
1979	28	68	12	20	2	–	130
1980	63	221	26	215	25	1	551
	101	311	39	248	27	6	732

SUMMARY OF COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES – 1981

	Rectified	Not Substantiated	No Jurisdiction	Discontinued	Assistance Rendered	Recommendation Not Accepted	Total
1977	–	–	–	2	–	–	2
1978	1	4	1	14	–	–	20
1979	9	14	4	15	1	–	43
1980	34	78	4	28	4	–	148
1981	78	165	19	334	11	–	607
	122	261	28	393	16	–	820

APPENDIX

THE OMBUDSMAN ACT

R.S.S. 1978

CHAPTER O-4.

An Act to provide for the appointment of a Person to Investigate Administrative decisions or acts of Departments of the Government and certain other Organizations and to define the Person's duties, functions and powers.

Short title

1. This Act may be cited as *The Ombudsman Act*.

Interpretation

2. In this Act:

agency of the government

(*a*) "agency of the government" means any board, commission, association or other body of persons, whether incorporated or unincorporated, all the members of which or all the members of the board of management or board of directors of which:

(*i*) are appointed by an Act or by an order of the Lieutenant Governor in Council; or

(*ii*) if not so appointed, in the discharge of their duties are public officers or servants of the Crown, or for the proper discharge of their duties are, directly or indirectly, responsible to the Crown;

department

(*b*) "department" means a department or branch of the executive government of the province;

minister

(*c*) "minister" means a member of the Executive Council. 1972, c. 87, s. 2.

Appointment

3.—(1) There shall be appointed, as an officer of the Legislature, a commissioner for investigation to be called an Ombudsman.

(2) The person appointed as Ombudsman shall be a Canadian citizen and, subject to section 5, he shall be appointed by the Lieutenant Governor in Council on the recommendation of the Legislative Assembly.

(3) Unless he sooner resigns, dies or is removed from office, the Ombudsman shall hold office for a term of five years from the date of his appointment and may be reappointed for one additional term of five years.

(4) The Ombudsman may at any time resign his office by writing addressed to the Speaker of the Assembly or to the President of the Executive Council if there is no Speaker or if the Speaker is absent from the province. 1972, c. 87, s. 3.

Removal or suspension

4. The Lieutenant Governor in Council on a resolution of the Assembly shall remove the Ombudsman from his office or suspend him according to the resolution. 1972, c. 87, s. 4.

Suspension when Legislature not in session

5.—(1) When the Legislature is not in session the Lieutenant Governor in Council may suspend the Ombudsman for disability, neglect of duty, misconduct or bankruptcy proved to the satisfaction of the Lieutenant Governor in Council, but the suspension shall not continue beyond the end of the next ensuing session of the Legislature.

(2) Where the office of Ombudsman is vacant or the Ombudsman is suspended under subsection (1), the Lieutenant Governor in Council shall appoint an acting Ombudsman to hold office until a person is appointed as Ombudsman under section 3 or the suspension has been dealt with by the Assembly. 1972, c. 87, s. 5.

Salary

6.—(1) The Ombudsman shall be paid:

(*a*) a salary equal to the salary fixed from time to time by the Lieutenant Governor in Council pursuant to subsection 5(1) of *The Provincial Court Act* to be paid to a judge of the Provincial Court of Saskatchewan; and

(*b*) an allowance for travelling and other expenses incurred by him in the performance of his duties that may be approved by the Lieutenant Governor in Council.

(2) Sums required for the purposes of this Act may be paid out of moneys appropriated by the Legislature for the purpose. 1972, c. 87, s. 6; 1973-74, c. 74, s. 1; 1974-75, c. 32, ss. 2, 3; 1976, c. 41, s. 1; 1976-77, c. 54, s. 1; 1978, c. 40, s. 1; 1979, c. 49, s. 2.

Application of certain Acts to Ombudsman and staff

7.—(1) The Ombudsman is not subject to *The Public Service Act*, except section 54 thereof, and he is subject to *The Public Service Superannuation Act*.

(2) The staff for the Ombudsman shall consist of such persons or positions as are required for the proper administration of this Act.

(3) *The Public Service Act* and *The Public Service Superannuation Act* apply to the members of the staff of the Ombudsman. 1972, c. 87, s. 7.

Oath of office

8. The Ombudsman shall, before entering upon the duties of his office, take and subscribe before the Speaker of the Assembly or the Clerk of the Legislative Assembly the following oath:

OATH OF OFFICE

"I, , do swear that I will faithfully and impartially perform and discharge the duties and functions of Ombudsman and that I will not, except as provided in *The Ombudsman Act*, divulge any information received by me in the exercise of my powers or the performance of my duties and functions under that Act". 1972, c. 87, s. 8.

Same

9. Every member of the staff of the Ombudsman shall, before entering upon the duties of his office, take and subscribe before the Ombudsman the following oath:

OATH OF OFFICE

"I, , do swear that I will faithfully and impartially perform and discharge the duties and functions of my office as an employee of the Ombudsman and that I will not, except as provided in *The Ombudsman Act*, divulge any information received by me in the exercise of my powers or the performance of my duties and functions under that Act". 1972, c. 87, s. 9.

Secrecy

10.—(1) The Ombudsman and every member of his staff shall maintain secrecy in respect of all matters that come to his knowledge in the exercise of his powers and the carrying out of his duties and functions under this Act.

(2) Notwithstanding subsection (1) or any oath taken under this Act, the Ombudsman may disclose in a report made by him under this Act any matter that he considers necessary to disclose in order to establish grounds for his conclusions and recommendations. 1972, c. 87, s. 10.

Delegation of powers

11.—(1) With the prior approval of the Lieutenant Governor in Council the Ombudsman may, by writing under his hand, delegate to any member of his staff any of his powers under this Act except the power of delegation under this section and the power to make a report under this Act.

(2) A delegation may be made to a specified person of the staff of the Ombudsman or to the holder for the time being of a specified office or to the holders of offices of a specified class of the staff.

(3) Every delegation is revocable at will and no delegation prevents the exercise of any power by the Ombudsman.

(4) A delegation may be made subject to such restrictions and conditions as the Ombudsman thinks fit and may be made either generally or in relation to a particular case or class of cases.

(5) Until a delegation is revoked, it continues in force according to its tenor and where the Ombudsman who made the delegation ceases to hold office the delegation shall continue to have effect as if it was made by his successor.

(6) Where the Ombudsman has delegated a power under this section, the person to whom the power is delegated shall, when required to do so, produce evidence of his authority to exercise the power. 1972, c. 87, s. 11.

Powers, functions and duties

12.—(1) It is the duty of the Ombudsman and he has power to investigate any decision or recommendation made, including any recommendation made to a minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by a department or agency of the government or by any officer, employee or member thereof in the exercise of any power, duty or function conferred or imposed on him by any Act whereby any person is or may be aggrieved.

(2) The Ombudsman may make an investigation of a matter either on a written complaint made to him by any person or of his own motion and he may commence an investigation notwithstanding that the complaint may not on its face be against a decision, recommendation, act or omission mentioned in subsection (1).

(3) A committee of the Assembly may at any time refer to the Ombudsman for investigation and report any petition or matter that is before the committee for consideration and the Ombudsman shall:

(*a*) subject to any special directions of the committee, investigate the petition or matter referred to him so far as it is within his jurisdiction; and

(*b*) make such report to the committee as he thinks fit.

(4) The Lieutenant Governor in Council may at any time refer to the Ombudsman for investigation and report any matter relating to the administration in or by any department or agency of the government or by any officer, employee or member thereof and the Ombudsman shall:

(*a*) subject to any special directions of the Lieutenant Governor in Council, investigate the matter referred to him so far as it is within his jurisdiction; and

(*b*) make such report to the Lieutenant Governor in Council as he thinks fit. 1972, c. 87, s. 12.

Complaints to Ombudsman

13.—(1) Every complaint to the Ombudsman shall be made by a person who is, or who before the date of the event that gave rise to the complaint was, a resident of Saskatchewan.

(2) A complaint under this Act may be made in respect of any matter that arises after this Act comes into force or that arose within the twelve months immediately preceding the coming into force of this Act.

(3) No complaint shall be investigated by the Ombudsman unless the complaint was made within twelve months after the event that gave rise to the complaint occurred.

(4) Notwithstanding subsection (3), if the Ombudsman for special reasons to be certified by him concludes that a complaint should be investigated, he may investigate the complaint regardless of when the event that gave rise to the complaint ocurred. 1972, c. 87, s. 13.

Ombudsman not restricted by provisions of other Acts

14. The Ombudsman may exercise his powers and shall carry out his duties and functions under this Act notwithstanding anything in any other Act which provides:

(*a*) that any decision, recommendation, act or omission that he is investigating is final or that no appeal lies in respect thereof; or

(*b*) that no proceeding or decision of the department, agency of the government, officer, employee or person whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called into question. 1972, c. 87, s. 14.

Restrictions on jurisdiction

15.—(1) Nothing in this Act authorizes the Ombudsman to investigate:

(*a*) any decision, recommendation, act, order or omission of the Assembly, a committee of the Assembly, the Lieutenant Governor in Council, the Executive Council or a member or committee of the Executive Council;

(*b*) any decision, order or omission of a court, a judge of a court, a referee or local master of a court, a magistrate or a

justice of the peace made or given in any action or proceeding in the court or before the judge, referee, local master, magistrate or justice of the peace;

(*c*) any award, decision, recommendation or omission of an arbitrator, or board of arbitrators, established by or under any Act;

(*d*) any decision, recommendation, act or omission in respect of which there is under an Act a right of appeal or objection or a right to apply for a review of the merits of the case to any court or tribunal constituted by or under an Act, whether or not that right of appeal, objection or application has been exercised in the particular case and whether or not any time prescribed for the exercise of that right has expired, unless the Ombudsman is satisfied that in the particular case it would have been unreasonable to expect the complainant to resort to the court or tribunal, but in that case the investigation shall not commence until after the time for the exercise of that right to appeal, object or apply has expired;

(*e*) any decision, recommendation, act or omission of any person acting as solicitor or counsel for the Crown in relation to any proceedings;

(*f*) any decision, recommendation, act or omission of a deputy minister, an acting deputy minister, associate deputy minister or assistant deputy minister when acting as such or of any person who by virtue of his appointment or actual employment is expressly or by necessary implication directly responsible to a minister;

(*g*) any decision, recommendation, act, order or omission of any department or agency of the government, or an officer, employee or person, in relation to any matter arising between the department, agency, officer, employee or person, and the government of another province or the Government of Canada or a municipality or school board.

(2) Where a dispute arises as to whether a person mentioned in clause (*f*) of subsection (1) is a person who by virtue of his appointment or actual employment is expressly or by necessary implication responsible to a minister, the dispute shall be referred to and be determined by the Attorney General and the decision of the Attorney General is final. 1972, c. 87, s. 15.

Question of jurisdiction to investigate

16.—(1) Where any question arises respecting the jurisdiction of the Ombudsman to investigate any case or class of cases under this Act, he may apply to the Court of Queen's Bench or a judge of the

court sitting in chambers for a declaratory order determining the question.

(2) Notice of an application under subsection (1) shall be served upon the Attorney General not less than fifteen days before the date on which the application is to be heard. 1972, c. 87, s. 16.

Certain correspondence with Ombudsman privileged

17. Notwithstanding any Act, where a letter written by a person in custody on a charge for an offence or after conviction for an offence, or by an inmate of a hospital, mental hospital, facility or institution operated by or under the direction of the government, or by any person in custody of another person for any reason, is addressed to the Ombudsman, it shall be forwarded, unopened, to the Ombudsman by the person for the time being in charge of the place where the writer of the letter is detained or in which he is an inmate or by the person having custody of the writer. 1972, c. 87, s. 17.

Refusal to investigate

18.—(1) The Ombudsman may, in his discretion, refuse to investigate or cease to investigate a complaint if:

(*a*) it relates to a decision, recommendation, act or omission of which the complainant had knowledge for more than a year before the complaint is received by the Ombudsman;

(*b*) in his opinion it is frivolous, vexatious, not made in good faith or concerns a trivial matter;

(*c*) in his opinion upon a balance between the public interest and the person aggrieved, it should not be investigated or the investigation should not be continued;

(*d*) in his opinion the circumstances of the case do not warrant investigation;

(*e*) the complainant does not have a sufficient personal interest in the subject matter of the complaint; or

(*f*) during the course of an investigation it appears to him:

(*i*) that under the law or existing administrative practices the complainant has adequate remedy or right of appeal, other than a petition to the Legislature, whether or not the complainant has availed himself of it; or

(*ii*) that, having regard to all the circumstances of the case, further investigation is unnecessary.

(2) This section does not apply to an investigation or report required to be made under subsection (3) or (4) of section 12. 1972, c. 87, s. 18.

Notice of cessation of investigation

19. Where the Ombudsman decides not to investigate, or to cease to investigate, a complaint, he shall inform the complainant of his decision and may, if he thinks fit, state his reasons therefor. 1972, c. 87, s. 19.

Notice of investigation

20.—(1) Before investigating any matter under this Act the Ombudsman shall notify the deputy minister of the department or the administrative or executive head of the agency of the government affected, as the case may be, of his intention to make the investigation.

(2) The notice shall be in writing and shall set forth the nature of the complaint, if any, received by the Ombudsman.

(3) The Ombudsman may in his discretion at any time during or after an investigation consult with the minister who is concerned in the matter of the investigation.

(4) On the request of the minister in charge of the department or agency of the government or in any case where an investigation relates to any recommendation made to a minister, the Ombudsman shall consult the minister after making the investigation and before forming a final opinion of any matter referred to in subsections (1) and (2) of section 24.

(5) Where, during or after an investigation, the Ombudsman is of the opinion that there is evidence of breach of duty or misconduct on the part of any officer or employee of any department or agency of the government, he shall refer the matter to the minister in charge of the department or agency of the government, as the case may require. 1972, c. 87, s. 20.

Conduct of investigation

21.—(1) Every investigation by the Ombudsman under this Act shall be conducted in private.

(2) The Ombudsman may hold hearings and hear or obtain information from any person he thinks fit and may make such inquiries as he thinks necessary.

(3) The Ombudsman is not required to hold a hearing and no person is entitled as of right to be heard by the Ombudsman but if at any time it appears to the Ombudsman that there are sufficient grounds for his making a report or recommendation in respect of any matter that may adversely affect any department, agency of the government or person, he shall give to that department, agency or person an opportunity to make representations in respect of the matter and the department, agency or person may make representations in respect of the matter by counsel. 1972, c. 87, s. 21.

Ombudsman may require information and examine persons

22.—(1) Subject to section 23, the Ombudsman may require any person, other than a minister or a person mentioned in clause *(f)* of subsection (1) of section 15, who in his opinion is able to give any information relating to any matter being investigated by him:

(*a*) to furnish information to him; and

(*b*) to produce any document or thing that, in his opinion, relates to the matter being investigated and that may be in the possession or under the control of that person;

whether or not that person is an officer, employee or member of the department or agency of the government and whether or not the document, paper or thing is in the custody or under the control of a department or agency of the government.

(2) The Ombudsman may summon before him and examine under oath:

(*a*) any person, other than a minister or a person mentioned in clause *(f)* of section 15, who is an officer, employee or member of any department or agency of the government and who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him;

(*b*) any complainant; and

(*c*) any other person who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him;

and for that purpose may administer an oath.

(3) Every examination by the Ombudsman under subsection (2) shall be deemed a judicial proceeding for the purposes of section 120 of the *Criminal Code*.

(4) Subject to section 23:

(*a*) a rule of law that authorizes or requires the withholding of any document, paper or thing or the refusal to answer any question on the ground that the disclosure or answer would be injurious to the public interest does not apply in respect of any investigation by or proceedings before the Ombudsman;

(*b*) no provision of an Act requiring a person to maintain secrecy in relation to, or not to disclose information relating to, any matter shall apply in respect of an investigation by the Ombudsman and no person who is required by the Ombudsman to furnish any information or to produce any document, paper or thing or who is summoned by the

Ombudsman to give evidence, shall refuse to furnish the information, produce the document, paper or thing or to answer questions on the ground of such a provision.

(5) Except on the trial of a person for perjury, no statement made by the person or any other person in the course of an investigation by, or any proceedings before, the Ombudsman is admissible in evidence against any person in any court, at any inquiry or in any other proceedings and no evidence in respect of proceedings before the Ombudsman shall be given against any person.

(6) No person shall be prosecuted for an offence against any Act by reason of his compliance with any requirement of the Ombudsman under this section. 1972, c. 87, s. 22.

Disclosure restricted

23. Where the Attorney General certifies to the Ombudsman that the giving of any information, the answering of any question or the production of any document, paper or writing might involve the disclosure of:

(*a*) the deliberations of the Executive Council; or

(*b*) proceedings of the Executive Council or a committee of the Executive Council relating to matters of a secret or confidential nature the disclosure of which would be injurious to the public interest;

the Ombudsman shall not require the information or answer to be given or the document, paper or writing to be produced, as the case may be, but shall report the receipt of the certificate in his next annual report. 1972, c. 87, s. 23.

Report on investigation

24.—(1) Where, after making an investigation under this Act, the Ombudsman is of the opinion:

(*a*) that a decision, recommendation, act or omission that is the subject matter of the investigation appears to have been:

(*i*) contrary to law;

(*ii*) unreasonable, unjust, oppressive, improperly discriminatory or was in accordance with a rule of law, a provision of an Act, or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory;

(*iii*) based in whole or in part on a mistake of law or fact; or

(*iv*) wrong;

(*b*) that in making a decision or recommendation, or in doing or omitting an act, a power or right has been exercised:

(*i*) for an improper purpose;

(*ii*) on irrelevant grounds; or

(*m*) on the taking into account of irrelevant considerations; or

(*c*) that reasons should have been given for a decision, recommendation, act or omission that was the subject matter of the investigation;

the Ombudsman shall report his opinion and his reasons therefor to the appropriate minister and to the department or agency of the government concerned and may make such recommendations as he thinks fit.

(2) Without limiting the generality of subsection (1), in making a report under that subsection the Ombudsman may recommend:

(*a*) that a matter should be referred to the appropriate authority for further consideration;

(*b*) that an omission should be rectified;

(*c*) that a decision should be cancelled or varied;

(*d*) that any practice on which a decision, recommendation, act or omission was based should be altered or reviewed;

(*e*) that any law on which a decision, recommendation, act or omission was based should be reconsidered;

(*f*) that reasons should be given for any decision, recommendation, act or omission; or

(*g*) that any other steps should be taken.

(3) This section does not apply to an investigation or report required to be made under subsection (3) or (4) of section 12. 1972, c. 87, s. 24.

Notice of proposed steps

25.—(1) Where the Ombudsman makes a recommendation under section 24, he may request the department or agency of the government to notify him within a specified time of the steps that it has taken or proposed to take to give effect to his recommendations.

(2) If, within a reasonable time after a request respecting recommendations is made under this section, no action is taken that seems to the Ombudsman to be adequate or appropriate the Ombudsman after considering the comments, if any, made by or on behalf of the department or agency of the government affected may submit a report of the matter, including a copy of the report containing the recommendation, to the Lieutenant Governor in Council and may thereafter mention the report in his next annual report to the Assembly. 1972, c. 87, s. 25.

Review of Ombudsman's decision

26.—(1) Where the Ombudsman makes a recommendation under section 24 and no action that seems to the Ombudsman to be adequate and appropriate is taken thereon within a reasonable time, the Ombudsman shall inform the complainant of his recommendation and make such comments on the matter as he thinks fit.

(2) The Ombudsman shall in any event inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation. 1972, c. 87, s. 26.

Proceedings not subject to review

27. No proceeding of the Ombudsman is invalid for want of form and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman shall be challenged, reviewed, quashed or called into question in any court. 1972, c. 87, s. 27.

Proceedings against Ombudsman prohibited

28.—(1) No proceedings lie against the Ombudsman or against any member of his staff for anything he may do, report or say in the course of the exercise or performance, or intended exercise or performance, of his powers, duties and functions under this Act unless it is shown that he acted in bad faith.

(2) Neither the Ombudsman nor any member of his staff shall be called in any court or in any proceedings of a judicial nature in respect of anything coming to his knowledge in the exercise or performance of his powers, duties and functions under this Act.

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the court relating to an investigation by or proceedings before the Ombudsman under this Act is privileged in the same manner as if the investigation or proceedings were proceedings in a court.

(4) For the purposes of *The Libel and Slander Act*, any report made by the Ombudsman under this Act shall be deemed to be privileged and a fair and accurate report thereon in a newspaper or a broadcast shall be deemed to be privileged. 1972, c. 87, s. 28; 1976-77, c. 81, s. 5.

Entry of premises

29.—(1) For the purposes of this Act, the Ombudsman may at any time enter upon the premises occupied by any department or agency of the government and, subject to section 12, carry out therein any investigation within his jurisdiction.

(2) Before entering upon any premises under subsection (1), the Ombudsman shall notify the deputy minister or administrative head of the department or agency of the government that occupies the premises of his intention to conduct an investigation. 1972, c. 87, s. 29.

Report by Ombudsman

30.—(1) The Ombudsman shall make and submit to the Speaker of the Assembly an annual report respecting the exercise of his powers and the performance of his duties and functions under this Act, which shall be laid before the Assembly within fifteen days from the commencement of the session next following the end of the year for which the report is made.

(2) The Ombudsman may from time to time in the public interest or in the interest of any person, department or agency of the government publish reports relating:

(*a*) generally to the exercise of his powers and the performance of his duties and functions under this Act; or

(*b*) to any particular case investigated by him;

whether or not the matters to be dealt with in any such report have been the subject of a report to the Assembly. 1972, c. 87, s. 30.

Rules for guidance

31.—(1) The Assembly may:

(*a*) of its own volition; or

(*b*) upon the recommendation of the Lieutenant Governor in Council;

make rules for the guidance of the Ombudsman in the exercise of his powers and performance of his duties and functions.

(2) Subject to this Act and any rules made under subsection (1), the Ombudsman may determine his procedure and the procedure for the members of his staff in the exercise of the powers conferred and the performance of the duties and functions imposed by this Act. 1972, c. 87, s. 31.

Offences and penalties

32. Any person who:

(*a*) without lawful justification or excuse wilfully obstructs, hinders or resists the Ombudsman or any other person in the exercise or performance of his powers, duties and functions under this Act;

(*b*) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; or

(*c*) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise or performance of his powers, duties and functions under this Act;

is guilty of an offence and liable on summary conviction to a fine not exceeding $500 or to imprisonment for a term not exceeding three months or to both fine and imprisonment. 1972, c. 87, s. 32.

Attorney General may intervene

33. The Attorney General or counsel appointed by him for the purpose may at any time, without leave of the court or judge, intervene in any action or proceedings taken in any court under section 27 or 28 and no order for costs for or against the Attorney General shall be made as a result of the intervention. 1972, c. 87, s. 33.

Act to provide additional remedies

34. The provisions of this Act are in addition to the provisions of any other Act or rule of law under which any remedy, right of appeal or objection is provided for any person, or any procedure is provided for inquiry into or investigation of any matter and nothing in this Act limits or affects any such remedy, right of appeal, objection or procedure. 1972, c. 87, s. 34.